

Docket Item #18  
SPECIAL USE PERMIT #2006-0037

Planning Commission Meeting  
June 6, 2006

**ISSUE:** Consideration of a request for a special use permit amendment to enclose the existing outdoor dining area and a modification of the zone transition setback.

**APPLICANT:** Eat Good Food, LLC  
by Duncan Blair, attorney

**LOCATION:** 110 South Pitt Street

**ZONE:** CD/Commercial Downtown

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**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, Eat Good Food, LLC, requests a special use permit amendment to enclose the existing outdoor dining area and a modification of the zone transition setback at an existing restaurant.

### SITE DESCRIPTION

The subject property is one lot of record with 33 feet of frontage on S. Pitt Street, 95 feet of depth and a total lot area of 5,551 square feet. The site is developed with a three-story commercial building, where Restaurant Eve currently occupies the first floor. The proposed patio enclosure is a 10' by approximately 30' area at the back of the restaurant, where outdoor seating currently exists.



The surrounding area is occupied by a mix of commercial and residential uses. Immediately to the north is hotel. Immediately to the south is a small office building, and residential uses further south. To the east and west are commercial uses.

### BACKGROUND

On December 18, 1976, City Council granted Special Use Permit #1096 to Jurgen and Carol Meir to operate a restaurant on the first floor of the subject building. Then on June 7, 1994, City Council granted Special Use Permit #1096-A to Farthings Limited, Inc., amending the conditions of the special use permit to add seats, extend the hours, allow on-premise alcohol sales, and allow live entertainment for the restaurant "Santa Fe East." Only July 17, 1995, City Council approved Special Use Permit #95-0058 for a review of the restaurant. In June 2003, staff approved Special Use Permit #2003-0056 to change the ownership of the restaurant to Eat Good Food, LLC, who since that time has been operating Restaurant Eve.

On May 24, 2006, staff visited the subject property to determine if the business was in compliance with the conditions of its special use permit. Staff found no violations of the special use permit, except that the applicant is unable to participate in the Park Alexandria Program because it no longer exists. According to the applicant, patrons are encouraged to use the parking garage across the street. Staff is not aware of any complaints regarding the existing restaurant.

### PROPOSAL

The applicant proposes to enclose an existing outdoor seating area at the back of the restaurant. The enclosed area will total approximately 290 square feet, and will be used for seating. The applicant

proposes to maintain the 138 maximum indoor seats that are currently permitted as the existing restaurant is well below this number with only 104 indoor seats. The applicant anticipates that approximately 16 chairs can be accommodated in the expanded area.

The proposed addition is located within the required 25-foot Zone Transition setback from the RM zoned property fronting on Prince Street, and the applicant requests a modification.

No other changes to the restaurant are proposed, including the hours of operation which are approved as 11:00 a.m. to 11:30 p.m. Sunday through Thursday, and 11:00 a.m. to 12:30 a.m. Friday and Saturday. Live music is permitted, limited to performances by solo musicians providing background music only. However, the applicant currently is open only until 10:00 p.m. during the week and 10:30 p.m. on Fridays and Saturdays, and does not offer live entertainment.

#### PARKING

The subject property is located in the Central Business District (CBD). Section 8-300(B) of the Zoning Ordinance does not require restaurants in the CBD to provide parking.

#### 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.

Section 7-902 (A) of the Zoning Ordinance requires that no commercial building be located within a distance from the nearest residential zone line equal to the height of such commercial building or 25 feet, whichever is greater. In this case, the proposed addition is only 10 feet tall, therefore must be at least 25 feet from the nearest residential zone line. The proposed addition is 1' 6" from the adjacent RM/Townhouse zone, which requires the proposed modification.

The proposed use is consistent with the Old Town Small Area Plan chapter of the Master Plan which designates the property for commercial use.

## **II. STAFF ANALYSIS**

Staff does not object to the proposed enclosure of the outdoor seating area. The addition will have little impact on the existing operation as the number of seats, hours of operation, and other aspects are not proposed to change.

Regarding the zone transition setback, the Zoning Ordinance requires increased setback for commercial buildings proximate to residential zones so that property in the residential zone is not adversely affected. In this case, the area of the addition is already permitted to be utilized for outdoor seating, which has some potential impacts including noise and odors. The enclosure will reduce impacts from seating in this area. The proposed addition will not intensify the restaurant

beyond what is already approved as the number of seats and hours of operation are not proposed to change. Furthermore, the addition is approximately .75 feet farther from the RM zoned property than the existing building, and fronts on to an unoccupied accessory structure on the residential property to the south. While loss of open space may be a concern generally, the subject space is already a concrete slab that is not visible from the public right-of-way, and is separated from the residential zone to the south by a tall wood fence. Finally, the addition is proposed to be only 10 feet tall and with no windows facing south, so will not invade privacy by looming over the residential property. Therefore, staff finds that the addition will not create an adverse impact on the adjacent residentially zoned property, and does not object to the modification.

Staff has updated and added conditions, including requiring participation in any coordinated parking program established as a result of the recommendations of the King Street Retail Strategy, to replace the condition requiring participation in the Park Alexandria program.

With these conditions, staff recommends approval of the 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 1096-A)
2. Seating shall be provided inside for no more than 138 patrons. (P&Z)(SUP 1096-A)
3. ~~**CONDITION DELETED BY STAFF:** Outside dining facilities shall be provided for no more than 30 patrons within the area delineated on the accompanying plan. Litter shall be picked up as it is generated, and the outside dining area shall be scrubbed and washed down at the close of business on each day of operation. (P&Z)(SUP 1096-A)~~
4. The hours of operation for indoor service shall be limited to 11:00 A.M. to 11:30 P.M., Sunday through Thursday, and to 11:00 A.M. to 12:30 A.M. Friday and Saturday. Outdoor service shall cease by 10:00 P.M. (PC)(SUP 1096-A)
5. No food, beverages, or other material shall be stored outside. (P&Z)(SUP 1096-A)
6. **CONDITION AMENDED BY STAFF:** Trash and garbage shall be stored inside or in sealed containers which do not allow odors to escape and shall be stored inside or in closed containers which do not allow invasion by animals. No trash and debris shall be allowed to accumulate on site outside of those containers. (P&Z)(SUP 1096-A)

7. ~~**CONDITION DELETED BY STAFF:** Trash and garbage shall be collected every day that service is available. (P&Z)(SUP 1096-A)~~
8. The applicant shall post the hours of operation at the entrance to the restaurant. (P&Z)(SUP 1096-A)
9. Litter on the site and on the 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)(SUP 1096-A)
10. All containers and food wrapping materials used for carry out orders shall be marked to indicate the name of the establishment in order to trace the source of litter. (P&Z)(SUP 1096-A)
11. Live music shall be limited to performances by solo musicians providing background music for diners. (City Council) (SUP#2003-0056)
12. Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers. (T&ES)(SUP 1096-A)
13. **CONDITION AMENDED BY STAFF:** The applicant shall participate in any organized program to assist with both employee and customer parking for businesses that is formed as a result of suggested parking strategies in the King Street Retail Study, at least to the extent that was required as part of the Park Alexandria program. ~~The applicant shall (a) participate in the Park Alexandria or a similar program, (b) advertise such parking by posting notice in the restaurant and including such notice in any advertising, and (c) urge patrons who drive to use the program. (PC)(SUP 1096-A)~~
14. The applicant shall require its employees to use off-street parking. (PC)(SUP 1096-A)
15. ~~**CONDITION DELETED BY STAFF:** On each anniversary of the approval of the special use permit the applicant shall provide to the Director of Planning and Community Development a copy of (a) evidence of its participation in the Park Alexandria or a similar program, (b) the materials advertising such program, and (c) a report evaluating the effect of such program on off-street parking by the restaurant's patrons. (PC)(SUP 1096-A)~~

16. **CONDITION AMENDED BY STAFF:** Loudspeakers shall be prohibited from the exterior of the building. No music or amplified sound shall be audible outside the building. No amplified sound shall be audible at the property line. (P&Z) (T&ES) (SUP#2003-0056)
17. Condition deleted. (SUP#2003-0056)
18. On site alcohol service is permitted; no off-premise alcohol sales are permitted. (P&Z) (SUP#2003-0056)
19. **CONDITION AMENDED BY STAFF:** The applicant shall control cooking odors, ~~and smoke and any other air pollution from operations at the site and prevent them from leaving the property to prevent them from~~ becoming a nuisance to neighboring properties, as determined by the Department of Transportation and Environmental Services. (T&ES) (SUP#2003-0056)
20. The applicant shall contact the Crime Prevention Unit of the Alexandria Police Department for a security survey and robbery awareness program for employees. (Police) (SUP#2003-0056)
21. **CONDITION ADDED BY STAFF:** 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)
22. **CONDITION ADDED BY STAFF:** 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)
23. **CONDITION ADDED BY STAFF:** Applicant shall contribute \$500.00 to the Streetscape Beautification Fund for the installation of litter receptacles along the public right-of-ways. Monetary contribution to be submitted to the Department of T&ES, Engineering Division, Room 4130, 301 King Street within 60 days of City Council approval. (T&ES)

24. **CONDITION ADDED BY STAFF:** 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 has 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 Fogarty, Director, Department of Planning and Zoning;  
Richard Josephson, Deputy Director;  
Valerie Peterson, Urban Planner.

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Staff Note: 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.

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 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.
- R-4 Applicant shall contribute \$500.00 to the Streetscape Beautification Fund for the installation of litter receptacles along the public right-of-ways. Monetary contribution to be submitted to the Department of T&ES, Engineering Division, Room 4130, 301 King Street within 60 days of City Council approval.
- 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 proposed addition is located within 5 feet on interior lot lines and shall conform to fire resistance ratings of the USBC.
- F-2 The proposed project will result in an increase in approved occupancy. This will require a new Certificate of Occupancy. The increase in occupancy will effect the required number of exits, egress routes and exit travel distances. All means of egress requirements shall meet the requirements of the USBC.
- F-3 The increased occupancy shall meet the restroom facility requirements of the USBC.
- C-1 All exterior walls within 5 feet from an interior property line shall have a fire resistance rating of 1 hour, from both sides of the wall. As alternative, a 2 hour fire wall may be provided. This condition is also applicable to skylights within setback distance. Openings in exterior walls between 3 and 5 feet shall not exceed 25% of

the area of the entire wall surface (This shall include bay windows). Openings shall not be permitted in exterior walls within 3 feet of an interior lot line.

- C-2 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 taken to prevent the spread of rodents from the construction site to the surrounding community and sewers.
- C-3 Roof drainage systems must be installed so as neither to impact upon, nor cause erosion/damage to adjacent property.
- C-4 A soils report must be submitted with the building permit application.
- 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 Permission from adjacent property owners is required if access to the adjacent properties is required to complete the proposed construction. Otherwise, a plan shall be submitted to demonstrate the construction techniques utilized to keep construction solely on the referenced property.
- C-9 A wall location plat prepared by a land surveyor is required to be submitted to this office prior to requesting any framing inspection.
- C-10 A revised fire prevention code permit is required for the proposed increase in operation. An egress plan showing fixture location, aisles and exit doors shall be submitted for review with the permit application.
- C-11 Required exits, parking, and accessibility for persons with disabilities must be provided to the building.
- C-12 A new Certificate of Occupancy is required prior to use of the proposed addition (USBC 119.1).

Health Department:

- F-1 This facility is currently operating as Restaurant Eve under an Alexandria Health Permit to Cathal Armstrong.
- C-1 An Alexandria Health Department Permit is required for all regulated facilities.
- C-2 This facility and all modifications must meet current Alexandria City Code requirements for food establishments.
- C-3 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 and/or approval must be obtained prior to operation.
- C-5 The facility must comply with the Alexandria City Code, Title 11, Chapter 10, Smoking Prohibitions.
- C-6 Certified Food Managers must be on duty during all hours of operation.
- C-7 Restrooms, including those in common areas, serving the restaurant, are to meet Alexandria City Code, Title 11, Chapter 2 requirements.

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.
- F-1 The applicant is seeking an “ABC On” license only. The Police Department has no objections.

SUP#2006-0037  
110 South Pitt Street

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