

Docket Item #2
SPECIAL USE PERMIT #2006-0085

Planning Commission Meeting
November 9, 2006

ISSUE: Consideration of a request for a special use permit to increase the number of seats at a restaurant and for a parking reduction.

APPLICANT: Philip McCombie

LOCATION: 320 Montgomery Street

ZONE: CRMU-X/ Commercial Mixed Use (Old Town North)

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, Mr. Phillip McCombie, requests special use permit approval to increase seating at an existing restaurant and for a parking reduction.

SITE DESCRIPTION

The subject property is one lot of record with 18 feet of frontage on Montgomery Street, 90 feet of depth and a total lot area of 1,620 square feet. The site is developed with a two story office/retail building. Access to the property is from Montgomery and North Royal Streets. The subject tenant space is located on the first floor and is currently being occupied by the applicant. The second floor is occupied by an office use.



The surrounding area is occupied by a mix of office/retail/residential uses. Immediately to the north is Montgomery Park. To the south and east is the Montgomery Center, which includes retail, personal service, office, and restaurant uses. To the west is Port Royal Condominiums.

BACKGROUND

On December 17, 2005, City Council granted Special Use Permit #2005-0110 to the applicant for the operation of a restaurant and for a parking reduction. Since the restaurant began operations, staff has not been made aware of any issues regarding the operation of the business.

On September 26, 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.

PROPOSAL

The applicant proposes to increase the number of seats in the restaurant from 32 to 46 seats. The applicant has described the operations of the restaurant as follows:

Hours: 11am- 3pm; 5pm-9pm Daily
(Existing SUP allows 7am- 12am daily)

Number of seats:	46 indoor seats <i>(Existing SUP allows 32 indoor seats only)</i>
Noise:	The applicant does not anticipate high levels of noise from the restaurant.
Trash/Litter:	Trash will be picked up daily by a private contractor. There is not a dumpster located on the premises.
Alcohol	On-premise beer and wine <i>(No change from existing SUP which allows on-premise beer and wine)</i>
Live Entertainment	The applicant proposes no live entertainment
Delivery Service:	The applicant proposes to continue offering delivery through a take out service, such as "Take Out Taxi." The applicant does not have their own delivery vehicles.

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 42 seats is required to provide 11 off-street parking spaces. The applicant is approved for a parking reduction of eight spaces for its 32 seats (SUP2005-0110). The current request is for a parking reduction of four additional parking spaces. In support of the parking reduction, the applicant states that most of the day patrons walk to the restaurant, and others may park in the Colonial Parking lot at 801 N. Fairfax Street. Employee parking is provided off-street at the Port Royal parking lot. In addition, there is metered parking located across the street at the tennis courts during weekdays.

The adjacent Montgomery Center, which encompasses the rest of the city block has a Special Use Permit that includes a parking reduction of 250 parking spaces and allows up to 10,000 square feet of restaurant use, of which 5,411 is occupied by restaurant uses.

ZONING/MASTER PLAN DESIGNATION

The subject property is located in the CRMU-X/Commercial Residential Mixed Use (Old Town North) zone. Section 5-403(V) of the Zoning Ordinance allows a restaurant in the CRMU-X zone only with a Special Use Permit.

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

II. STAFF ANALYSIS

Staff supports the restaurant at 320 Montgomery Street. The restaurant's expansion will allow the restaurant to provide service to more customers than what is currently allowed under their existing Special Use Permit. Staff has not received complaints regarding the existing operation, and found it fully compliant upon inspection.

Although supportive, staff is mindful of the lack of off-street parking at this location. Additionally, the Montgomery Center, which encompasses the rest of the City block, has been granted a parking reduction that allows up to 10,000 square feet of restaurant use, where currently there is only 5,411 square feet of restaurant use. Finally, the applicant proposes to secure off-street parking for all employees, leaving street parking more available for customers. Therefore, staff does not object to the proposed parking reduction. Staff has included the standard condition that employees park off the street. Staff also recommends the condition that mass transit opportunities be posted for employees to encourage them to use mass transit.

With these 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 corporation in which the applicant has a controlling interest. (P&Z)(SUP2005-0110)
2. The hours of operation of the restaurant shall be limited to between 7:00 a.m. and 12:00 midnight daily. (P&Z)(SUP2005-0110)
3. The applicant shall post the hours of operation at the entrance of the business. (P&Z)(SUP2005-0110)
4. No live entertainment shall be provided at the restaurant. (P&Z)(SUP2005-0110)
5. On site service of beer and wine is permitted; no off-premise alcohol sales are permitted. (P&Z)(SUP2005-0110)
6. No food, beverages, or other material shall be stored outside. (P&Z)(SUP2005-0110)

7. ~~**CONDITION DELETED BY STAFF:** 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)~~
8. The applicant shall maintain the landscaping in good condition, to the satisfaction of the Director of Planning and Zoning. (P&Z)(SUP2005-0110)
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 containers which does not allow invasion by animals. No trash and debris shall be allowed to accumulate on site outside of those containers. (P&Z)(SUP2005-0110)
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)(SUP2005-0110)
11. Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers. (T&ES)(SUP2005-0110)
12. Loudspeakers shall be prohibited from the exterior of the building, and no amplified sounds shall be audible at the property line. (P&Z) (T&ES)(SUP2005-0110)
13. The applicant shall control cooking odors and smoke from the property to prevent them from becoming a nuisance to neighboring properties, as determined by the Department of Health.(P&Z) (T&ES)(SUP2005-0110)
14. Meals ordered before the closing hour may be served, but no new patrons may be admitted, and all patrons must leave by one hour after the closing hours. (P&Z)(SUP2005-0110)
15. ~~**CONDITION DELETED BY STAFF:** The applicant is to contact the Crime Prevention Unit of the Alexandria Police Department at 703-838-4520 regarding a security survey for the business and a robbery awareness program for all employees. This is to be completed prior to opening for business.(Police)~~
16. The applicant shall require its employees who drive to work to use off-street parking. (P&Z) (SUP2005-0110)

17. 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)(SUP2005-0110)
18. 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)(SUP2005-0110)
19. 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 a result of a complaint that rises to the level of a violation of the permit conditions, 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)(SUP2005-0110)
20. **CONDITION ADDED BY STAFF:** The applicant shall provide a menu or list of foods to be handled at this facility to the Health Department prior to opening. (Health)
21. **CONDITION ADDED BY STAFF:** The applicant shall provide storage space for solid waste and recyclable materials containers as outlined in the City's "*Solid Waste and Recyclable Materials Storage Space Guidelines*", or to the satisfaction of the Director of Transportation & Environmental Services. The City's storage space guidelines and required Recycling Implementation Plan forms are available at: www.alexandriava.gov or contact the City's Solid Waste Division at 703-519-3486 ext.132. (T&ES)

STAFF: Richard Josephson, Acting Director, Department of Planning and Zoning;
James Hunt, 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:

- 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 The applicant shall provide storage space for solid waste and recyclable materials containers as outlined in the City's "*Solid Waste and Recyclable Materials Storage Space Guidelines*", or to the satisfaction of the Director of Transportation & Environmental Services. The City's storage space guidelines and required Recycling Implementation Plan forms are available at: www.alexandriava.gov or contact the City's Solid Waste Division at 703-519-3486 ext.132.
- 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.
- C-2 The applicant shall comply with the City of Alexandria's Solid Waste Control, Title 5, Chapter 1, which sets forth the requirements for the recycling of materials.(Sec. 5-1-99)
- F-1 The applicant has purchased a City trash receptacle per the conditions of SUP#2005-00110.

Code Enforcement:

- C-1 The applicant must obtain a new Certificate of Occupancy prior to any increase in occupancy (use) of the structure (USBC 119.1).
- 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.
- C- 3 Any increase in occupancy must be supported by the required number of restroom facilities within the structure in accordance with the USBC / International Plumbing Code.
- C- 4 Any increase in occupancy will only be considered for the exterior of the structure and will not modify the approved interior approved occupant load. At no time shall any approved outdoor seating be incorporated inside due to foul weather or other situations.
- C-5 A revised Fire Prevention Permit is required due to the increase in occupancy. A revised egress plan showing fixture location, aisles and exit doors shall be submitted for review with the permit application.

Health Department:

- R-1 The applicant shall provide a menu or list of foods to be handled at this facility to the Health Department prior to opening. (Health)
- 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 review of plans for food facilities.
- C-4 Permits or approvals 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.

- F-1 This facility is currently operating as Thailand at Royal St. Restaurant under an Alexandria Health Permit issued to Mr. Percy, LLC.

Police Department:

- F-1 The Police Department conducted a security survey of the business on September 20, 2006. It is not apparent to the Police Department how the applicant will be able to increase its seating from 32 to 46 without over-crowding. Therefore, the Police Department will yield respectfully in judging or opinion to Planning & Zoning.
- F-2 It is not apparent to the Police Department how the applicant will be able to fit tables outside the restaurant and still provide enough space along the sidewalk for pedestrians to navigate around the patrons effortlessly without interfering with the patron's personal space need to consume their food comfortably. Therefore, the Police Department is opposed to the outdoor seating.

SUP 2006-0085
320 Montgomery Street

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