

Docket Item #17  
SPECIAL USE PERMIT #2007-0063

Planning Commission Meeting  
September 6, 2007

**ISSUE:** Consideration of a request to amend a special use permit to increase the seating at a restaurant.

**APPLICANT:** Glenda Giovannoni

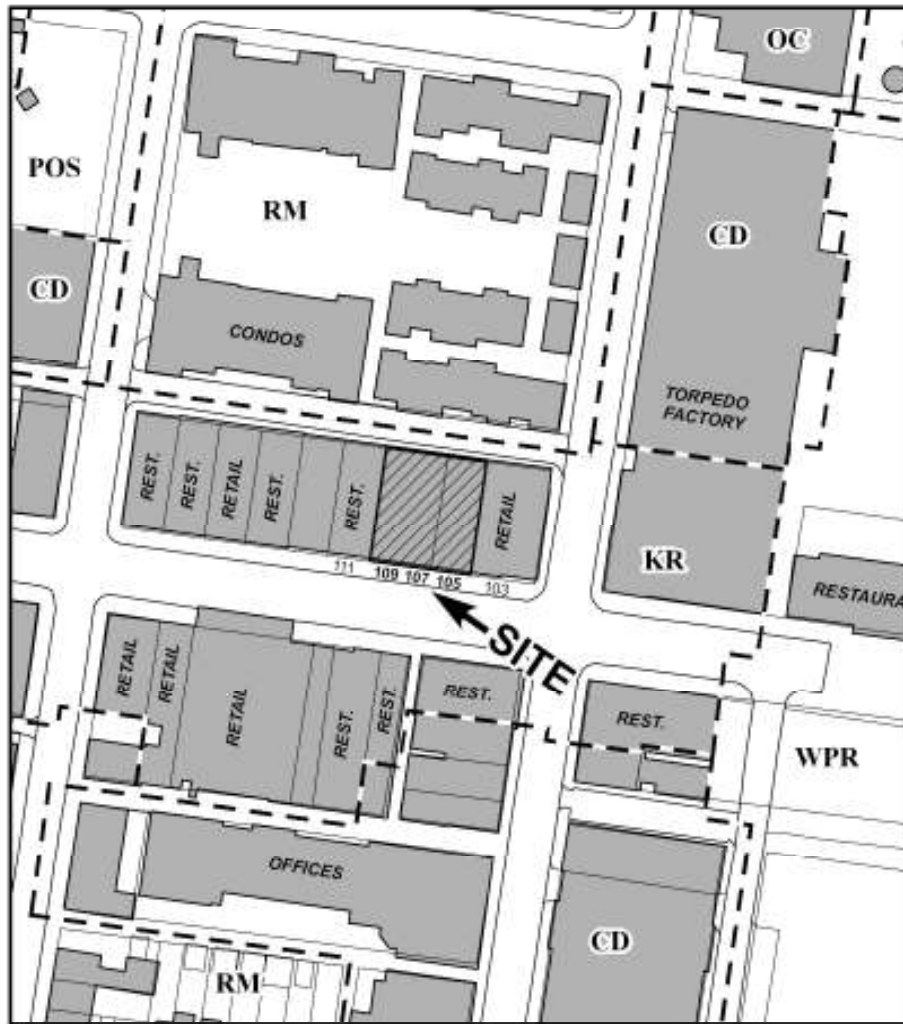
**STAFF:** Richard W. Bray  
Richard.bray@alexandriava.gov

**LOCATION:** 105, 107 and 109 King Street  
The Fish Market

**ZONE:** KR/King Street Urban Retail

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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.



SUP #2007-0063

09/06/07



## I. DISCUSSION

### REQUEST

The applicant, Glenda Giovannoni, requests an amendment to a Special Use Permit for increased seating in a restaurant located at 105-109 King Street.

### SITE DESCRIPTION

The subject property is three lots of record with approximately 74.3 feet of frontage on King Street, a depth of 81 feet and a total lot area of approximately 6,018 square feet. The site is developed by three buildings; 105, 107 and 109 King Street. 105 and 107 King Street are occupied with the Fish Market on both the first and second floors. 109 King Street is occupied with Pop's Ice Cream on the ground floor. The second floor of 109 is currently used as a banquet room for the Fish Market.



Surrounding the property is a mix of commercial uses. Immediately to the west is Buggy's restaurant, to the south across King Street is What's the Scoop ice cream shop and Daniel O'Connell's Irish Restaurant. The subject site is bordered by Ramsey Alley to the north.

### BACKGROUND

The portion of the Fish Market restaurant located in the building at 105 King Street was a grandfathered use. It has operated since it opened in 1976 without a Special Use Permit. The addition of the part of the restaurant in the 107 King Street building was approved as a Special Use Permit in 1985 (SUP #1820). On October 16, 2004, City Council approved SUP#2004-0072 which allowed the addition of a kitchen and a 100 seat banquet room to the second floor of 109 King Street. SUP2004-0072 also consolidated the operations of The Fish Market under one Special Use Permit. The Fish Market is approved to operate with the following characteristics:

- (A) The restaurant contains 384 seats, including a 100 seat banquet room, 38 bar seats and 10 seasonal outdoor dining seats. The restaurant operates with a maximum of 50 employees at any one time.
- (B) The restaurant provides a full-service menu, specializing in seafood.

- (C) The restaurant operates from 11:15 A.M. to 12:00 midnight on Sunday, and from 11:15 A.M. to 1:00 A.M., Monday through Saturday.
- (D) The restaurant provides entertainment in the form of piano players on the second floor.
- (E) The restaurant has an ABC license for the on-premise sale of mixed drinks, wine and beer.

Staff visited the subject property to determine if the business was in compliance with the conditions of its special use permit. Staff found that there were 160 seats in the section of the restaurant at 107 King Street. This portion of the restaurant was allowed 100 seats under SUP #1820. The applicant states that this section of the restaurant has always operated with 160 seats. The occupancy inspection performed after the approval of SUP #2004-0072 shows 100 seats.

#### PROPOSAL

The applicant proposes to add a total of 60 seats to two floors of the restaurant located at 107 King Street. All other aspects of the business are to remain the same.

Number of seats: 444, including 100 seats in a banquet room reserved for special events and 10 seasonal outdoor seats.

Noise: Historically, The Fish Market has not had any noise complaints.

Trash/Litter: The restaurant uses the City's commercial dumpster on Union Street, with City pick-up. Staff patrols for litter in compliance with their SUP.

#### PARKING

The subject property is located in the Central Business District where parking is not required for restaurants.

In response to additional parking needs based on expansion of the restaurant, the applicant states that customers have historically been local business, professional, and government workers during lunch hours and, nearby residents during dinner times, many of whom walk to the restaurant.

There are six public parking garages within three blocks of The Fish Market. Staff feels that there will be sufficient parking in these garages to accommodate the increased patronage at the restaurant. The applicant currently offers a parking discount in the amount of \$1.00 and has agreed to participate in a formal structured Old Town parking program.

ZONING/MASTER PLAN DESIGNATION

The subject property is located in the KR/King Street Urban Retail Zone. Section 6-702(A)(2)(k) of the Zoning Ordinance allows a restaurant on a ground floor in the KR zone only with a special use permit.

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 supports the request for additional seating at The Fish Market. As a successful restaurant in Old Town, this restaurant is an important asset for the City. Successful destination restaurants are a key component to the prosperity of retail merchants in Old Town. Full service dining on lower King Street for residents as well as tourists is in keeping with the King Street Retail Strategy.

The applicant is requesting an amendment to the current Special Use Permit to allow the restaurant to operate with the same number of seats that it has had historically. Staff feels that restricting 107 King Street to 100 seats would be an underutilization of the space. Since the restaurant has been operating at the current level of service without any complaints, staff feels that the amendment is reasonable.

With regard to parking, the applicant's participation in a parking subsidy program is important in mitigating any impacts. With the number of parking garages in the vicinity, there is available off-street parking and the restaurant's subsidy promotes this use to customers. The Fish Market complies with the SUP condition that forbids employee parking on-street. Staff notes that The Fish Market has not had any noise complaints with their current operation.

With the following conditions, staff recommends approval of the special use permit amendment.

**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) (SUP2004-0072)
2. **CONDITION AMENDED BY STAFF:** Indoor seating shall be provided for no more than ~~274~~ 334 patrons. An additional 100 seats are allowed only for banquets, special events (major city festivals and

parades) and tour groups, and an additional 10 seats are allowed only for seasonal outdoor dining. (PC)

3. Condition deleted. (P&Z) (SUP2004-0072)
4. The closing hour shall be no later than 12:00 midnight on Sunday, and 1:00 A.M. Monday through Saturday. (P&Z) (SUP2004-0072)
5. That no food, beverages, or other material be stored outside. (P&CD) (SUP#1820)
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) (SUP2004-0072)
7. Trash and garbage shall be collected daily when the business is open. (P&CD) (SUP#1820)
8. Condition deleted. (P&Z) (SUP2004-0072)
9. The applicant shall maintain a parking arrangement with area garages, by which the regular parking price at those garages is discounted by at least \$1 for customers. The applicant shall post information regarding the availability of parking at those garages for patrons at the restaurant. (PC)
10. Condition deleted. (PC) (SUP2004-0072)
11. Prior to a banquet or special event, the applicant shall provide to the guests information regarding the location, hours and fees at area parking garages. (P&Z) (SUP2004-0072)
12. The applicant shall require that its employees who drive to work use off-street parking. (P&Z) (SUP2004-0072)
13. 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) (SUP2004-0072)
14. The applicant shall participate in any organized program to assist with both employee and customer parking for businesses, such as the Park Alexandria program, that is formed as a result of suggested parking strategies in the King Street Retail Study. (P&Z) (SUP2004-0072)

15. **CONDITION DELETED – DUPLICATE OF #13:** ~~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) (SUP2004-0072)~~
16. The applicant shall post the hours of operation at the entrance to the restaurant. (P&Z) (SUP2004-0072)
17. 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. (P&Z) (SUP2004-0072)
18. Indoor live entertainment shall be permitted to the extent that no amplified sound is audible outside the restaurant. No admission or cover fee shall be charged. All entertainment shall be subordinate to the principal function of the restaurant as an eating establishment. Any advertising of the entertainment shall reflect the subordinate nature of the entertainment by featuring food service as well as the entertainment. (P&Z) (SUP2004-0072)
19. On-site alcohol service is permitted; no off-premise alcohol sales are permitted. (P&Z) (SUP2004-0072)
20. In order to breach the existing fire wall between 107 and 109 King Street, each parcel must be combined and recorded as one single parcel or the parcels shall comply with the fire separation requirements of the USBC and shall be maintained subject to the approval of the Director of Code Enforcement. (Code Enforcement) (P&Z) (SUP2004-0072)
21. 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) (SUP2004-0072)
22. Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys, or storm sewers. (T&ES) (SUP2004-0072)
23. All loudspeakers shall be prohibited from the exterior of the building and no amplified noise shall be audible at the property line. (T&ES) (SUP2004-0072)

24. 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) (SUP2004-0072)
25. No delivery service shall be permitted. (P&Z) (SUP2004-0072)
26. The applicant shall 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. (Police) (SUP2004-0072)
27. The applicant shall provide a menu or list of foods to be handled at this facility to the Health Department. (Health) (SUP2004-0072)
28. The applicant shall conduct employee training session on an ongoing basis, including as part of any employee orientation, to discuss all SUP provisions and requirements, as well as ongoing training for sales of alcohol to minors. (P&Z) (SUP2004-0072)
29. 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)
30. The applicant shall ensure that buses park in designated spaces. (PC) (SUP2004-0072)
31. **CONDITION ADDED BY STAFF:** Applicant shall contribute \$500.00 to the Litter Control 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)



32. **CONDITION ADDED BY STAFF:** The applicant shall comply with any requirements adopted as a part of a smoke-free restaurant ordinance. (P&Z)

**STAFF:** Richard Josephson, Deputy Director, Department of Planning and Zoning;  
Richard Bray, Urban Planner.

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**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 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 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](http://www.alexandriava.gov) or contact the City's Solid Waste Division at 703-519-3486 ext.132.
- R-5 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.
- R-6 Applicant shall contribute \$500.00 to the Litter Control 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.
- R-7 The applicant shall require its employees who drive to use off-street parking and/or provide employees who use mass transit with subsidized bus and rail fare media. The applicant shall also post DASH and Metrobus schedules on-site for employees.

- 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).

Code Enforcement:

- F-1 No Comment

Health Department:

- F-1 No Comment

Parks and Recreation:

- F-1 No Comment

Police Department:

- F-1 The Police Department has no objections or comments to the request for increased seating.

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