

Docket Item #18
SPECIAL USE PERMIT #2007-0069

Planning Commission Meeting
September 6, 2007

ISSUE: Consideration of a request to amend a special use permit to allow a later closing time for an existing restaurant.

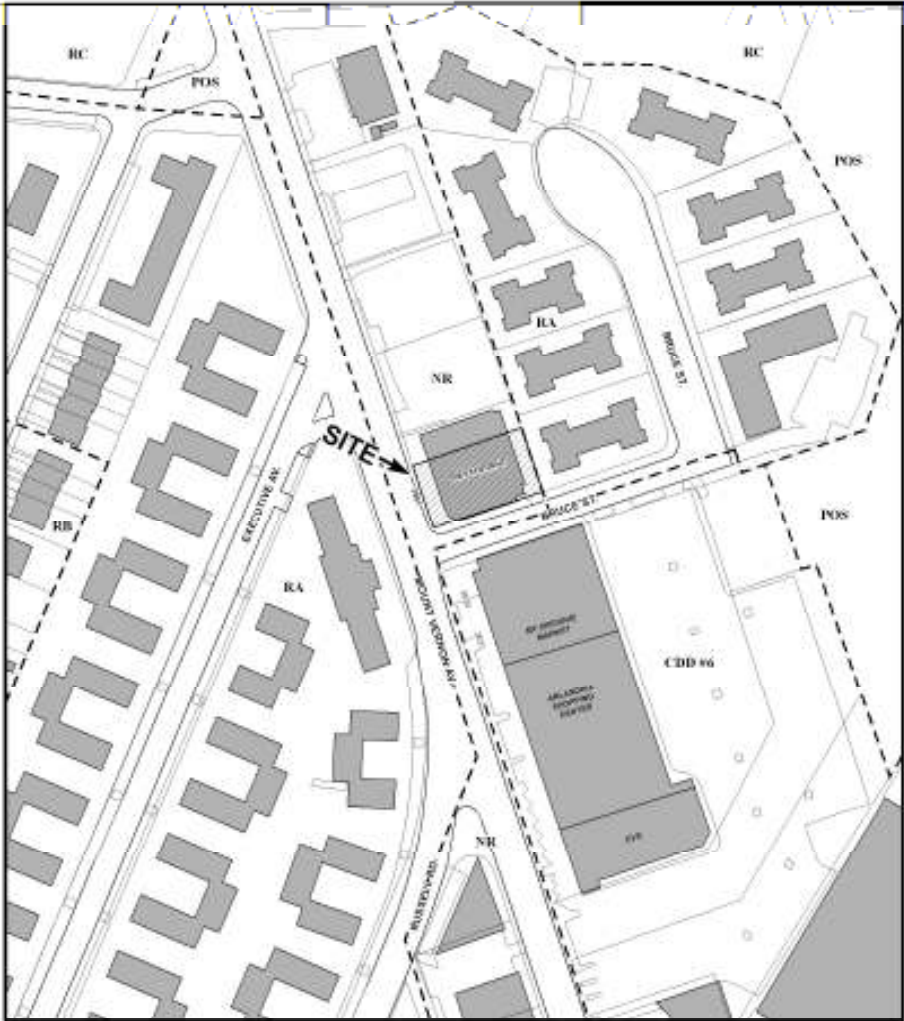
APPLICANT: OAVAR's Inc.
by Oswaldo A. Salinas
Lilian's Restaurant

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

LOCATION: 3901 Mt. Vernon Avenue

ZONE: NR/Neighborhood Retail

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 #2007-0069

09/06/07



I. DISCUSSION

REQUEST

The applicant, Oswaldo Salinas, requests an amendment to his special use permit to allow for a later closing time for the restaurant located at 3901 Mount Vernon Avenue.

SITE DESCRIPTION

The subject property is one lot of record with approximately 70 feet of frontage on Mount Vernon Avenue, 126 feet of frontage on Bruce Street and a total lot area of approximately 8,820 square feet. The subject lot is part of a larger site developed with a one story building with three tenant spaces and a large parking lot to the north of the building. The other tenants in the building include an H&R Block office and a retail business. An alley runs along the building to the east and separates the subject restaurant from the adjacent Chirilagua residential community. The Presidential Greens apartments are located across the street to the west. A shopping center is located to the south.



BACKGROUND

On March 13, 1999, City Council granted Special Use Permit #99-008 to the applicant for the operation of a restaurant. On September 15, 2001, City Council granted Special Use Permit #2000-0138 to the applicant to allow limited live entertainment on the first floor of the restaurant, to increase the hours of operation, to provide outdoor dining and to offer an annual outdoor event. As part of that Council action, the applicant's request for live entertainment and dancing in the basement of the restaurant was denied. On April 13, 2002, City Council granted Special Use Permit #2002-0001 to allow an increase in the hours of operation. On January 25, 2003, City Council reviewed the Special Use Permit and considered an amendment to add a dance floor to the premises (SUP#2002-0104). At that session the application for a dance floor was denied and City Council determined that the restaurant could remain open but the hours were scaled back to a midnight closing time. Council cited the increase in police calls for service to the restaurant and an inability of the owner to control the establishment as reasons for the reduction in hours.

On July 25, 2007, 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 extend his weekend hours of operation until 1:30 am.

Hours: Sunday – Thursday: 10:00 am – Midnight
 Friday and Saturday: 10:00 am – 1:00 am

Number of seats: 300

Noise: The applicant will comply with the prohibition of amplified sounds at the property line.

Trash/Litter: Weekly garbage collection, staff patrols property for litter.

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 300 seats is required to provide 75 off-street parking spaces. The applicant has a shared lot to the north of the restaurant that has enough spaces to accommodate the required parking. Since the peak demand for restaurant parking will occur after the other businesses in the building have closed, staff believes that the parking arrangement will be sufficient.

ZONING/MASTER PLAN DESIGNATION

The subject property is located in the CL/Commercial Low zone. Section 4-103(M) of the Zoning Ordinance allows a restaurant in the CL 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 small scale retail and service uses.

II. STAFF ANALYSIS

In the past Lilian's had problems with late closing hours. In January of 2002, City Council moved the closing hour back to midnight after a six month period in which the restaurant was allowed to be open until 1:00 am. The police did not support the 1:00 am closing hour in 2002 due to the increase in calls for service and disruptions in the neighborhood. The police were also troubled by a lack of cooperation from the applicant. Since 2002 Mr. Salinas has taken steps to ensure that his business is an asset to the neighborhood rather than a nuisance. The applicant now has doormen who control the crowd and made sure that customers do not get out of hand. The applicant also educates his staff on the dangers of over-serving customers and how to serve alcohol responsibly.

Based on the above, staff supports the request for a later weekend closing hour at Lilian's restaurant. There are other establishments in the area that have similar closing hours to

those requested by the applicant. In September of 2005, City Council approved a restaurant and bakery (My Bakery & Café, SUP2005-0084) at 3839 Mount Vernon Avenue with a weekend closing hour of 1:00 am with an option to extend to 2:00 am after six months.

Captain Reyes, the Arlandria Community Liaison for the Alexandria Police Department, reports that in his tenure in Arlandria Mr. Salinas has run a successful restaurant that serves the community well. Captain Reyes further points out that calls for service to 3901 Mount Vernon Avenue are not all attributable to Lilian's Restaurant. When the payphones on the side of the building are used to call the police, the call for service is listed as 3901 Mount Vernon Avenue regardless of where the issue originated.

Due to the history of late hours at this location, staff has recommended a six month review condition instead of the standard one year period. Staff urges the applicant to continue to be a responsible business owner and an asset to the Arlandria community.

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 #99-008)
2. Seating shall be provided for no more than 300 patrons. (P&Z) (SUP #99-008)
3. Outside dining facilities may be provided in a manner consistent with the plan dated August 28, 2001, provided that alternative flood proofing to the satisfaction of the Directors of Planning and Zoning and Transportation and Environmental Services is provided. (PC) (SUP #2000-0138)
4. Live entertainment may be provided at the restaurant and shall be limited to a three or four piece instrumental and singing group on the first floor only. No live entertainment and no dance floor shall be provided in the basement of the restaurant. (P&Z) (SUP #2000-0138)
5. **CONDITION AMENDED BY STAFF:** The hours of operation shall be limited to between 10:00 a.m. and 1:00 a.m. on Fridays and Saturdays and until Midnight Sunday through Thursday. The hours of operation of the outdoor dining area shall be limited from 10:00 a.m. to 10:00 p.m. daily. The outdoor dining area shall be cleared of all diners by 10:00 p.m. and shall be cleaned and washed by 10:30 p.m. (P&Z)

6. The applicant shall post the hours of operation at the entrance to the restaurant. (P&Z) (SUP #99-008)
7. The applicant may serve beer, wine and liquor for on premise consumption only. (P&Z)(SUP #99-008)
8. The applicant may not provide alcohol service to standing customers. (P&Z) (SUP #99-008)
9. No food, beverages or other material shall be stored outside. (P&Z) (SUP #99-008)
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) (SUP #99-008)
11. Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers. (T&ES) (SUP #99-008)
12. 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 or becoming a nuisance to neighboring properties, as determined by the Department of Transportation and Environmental Services. (T&ES) (SUP #2002-0001)
13. 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) (SUP #99-008)
14. No music or amplified sound shall be audible at the property line. (P&Z) (SUP #99-008)
15. The applicant shall contact the Crime Prevention Unit of the Alexandria Police Department for a security survey for the business and a robbery awareness program for the employees. (Police) (SUP #99-008)
16. **CONDITION ADDED BY STAFF:** The applicant shall comply with any requirements adopted as a part of a smoke-free restaurant ordinance. (P&Z)
17. **CONDITION DELETED BY STAFF:** ~~In order to ensure compliance with its affidavit, the applicant shall provide a quarterly update to the Police Department.~~ (Police) (SUP #2000-0138)

18. The applicant shall obtain at their expense, one Model SD-42 Bethesda Ironside Series trash container to replace existing container located on the adjacent located on the adjacent right-of-way. (T&ES) (SUP #2000-0138)
19. The outdoor community event as described by the applicant shall be coordinated through the City of Alexandria Special Events Committee. Not more than one event shall occur annually and the hours of operation of the event shall be restricted to between 10:00 a.m. and 6:00 p.m. (Police) (P&Z) (SUP #2000-0138)
20. The outdoor event shall occur only in the on-site parking lot located to the north of the building and only with the permission of the owner of the property. (P&Z) (SUP #2000-0138)
21. No music or other amplified sound shall be audible at the property line and no speakers or entertainment be permitted outside of the building without first obtaining a noise permit from T&ES Division of Environmental Quality. (T&ES) (SUP #2000-0138)
22. The applicant shall apply for a temporary food event permit from the Health Department at least two weeks prior to the event. (Health) (SUP #2000-0138)
23. 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) (SUP #2000-0138)
24. The applicant shall conduct employee training sessions on an ongoing basis, including as part of any employee orientation, to discuss all Special Use Permit provisions and requirements. (P&Z)
25. The Director of Planning and Zoning shall review the special use permit six months after this approval 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, (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: Richard Josephson, Deputy Director, Department of Planning and Zoning;
Richard Bray, 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 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 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 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.
- R-7 The applicant shall obtain, at their expense, one Model SD-42 Bethesda Ironside Series trash container to replace existing container located on the adjacent right-of-way.
- 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 comments.

Health Department:

- F-1 No comments.

Parks and Recreation:

- F-1 No comments.

Police Department:

- F-1 The applicant has requested an extension of hours for the business. The Police Department’s comments are as follows:

The Police Department has no objections to the below proposed hours

- | | |
|----------------------|-------------------------|
| 1) Monday – Thursday | 10:00 A.M. – 12:00 A.M. |
| 2) Sunday | 10:00 A.M. – 12:00 A.M. |

The Police Department will only support the below listed hours if the condition reads “**all patrons must leave the premises by 2:00 A.M.**”

- | | |
|------------------------|------------------------|
| 1) Friday and Saturday | 10:00 A.M. – 2:00 A.M. |
|------------------------|------------------------|

- F-2 The Police Department **does not support** the business closing at 2:00 A.M. and then the patrons leaving at 3:00 A.M.

- F-3 Condition #17 under SUP #2002-0104 requires the applicant to provide an update to their affidavit to the Police Department quarterly.

The Police Department requests this condition be rescinded.

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