

Docket Item #2  
SPECIAL USE PERMIT #2006-0107

Planning Commission Meeting  
January 4, 2007

**ISSUE:** Consideration of a request to amend the hours of operation of an existing restaurant.

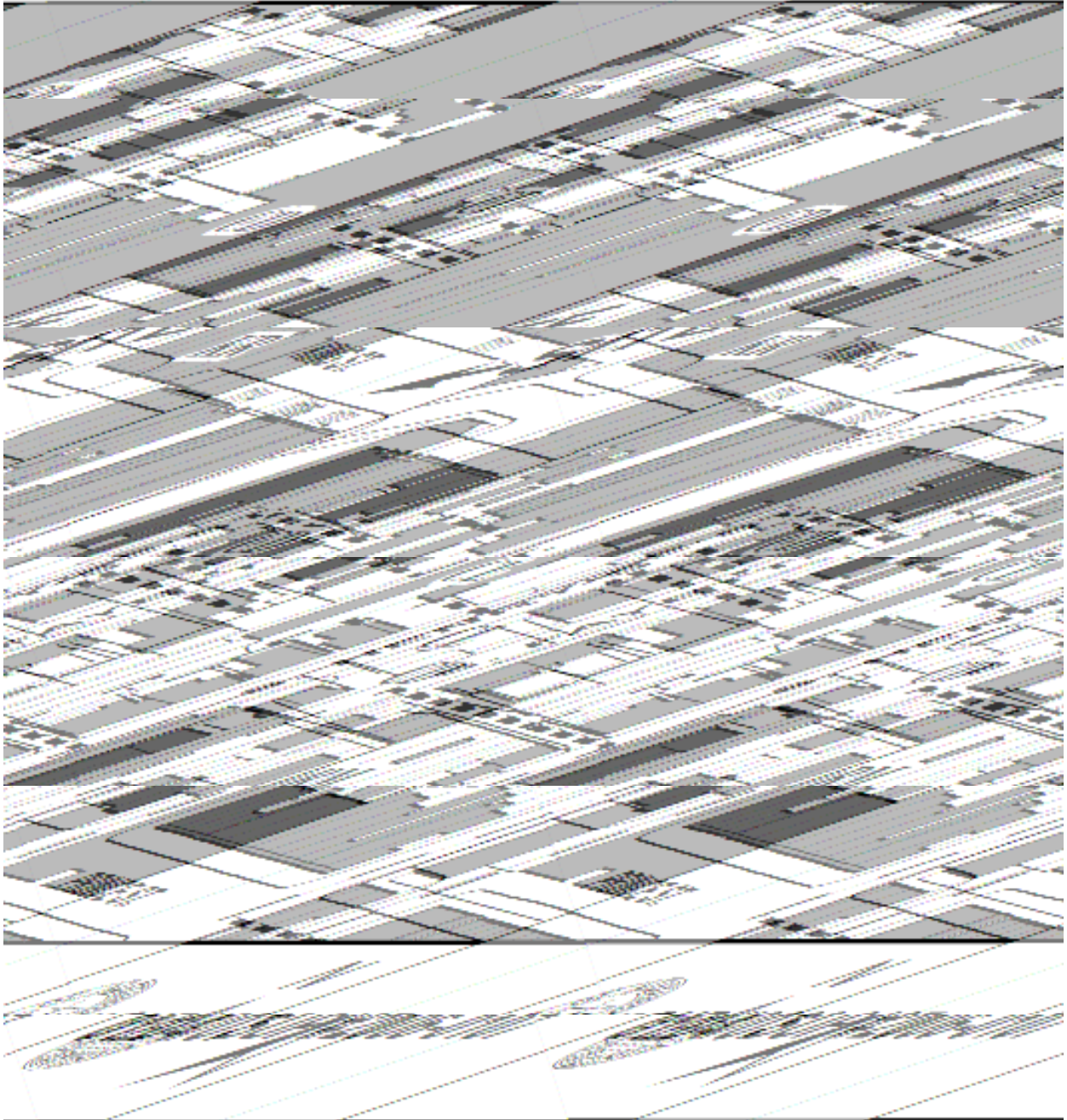
**APPLICANT:** 1106 King Restaurant, LLC  
by David Chamowitz, agent

**LOCATION:** 1106 King Street

**ZONE:** KR/King Street 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.



**I. DISCUSSION**

REQUEST

The applicant, 1106 King Street, L.L.C., requests special use permit approval to amend the hours of operation for a restaurant located at 1106 King Street.

SITE DESCRIPTION

The subject property is two lots of record, each with 24 feet of frontage on King Street, 84 feet of depth and a total lot area of 2,016 square feet. The two lots are developed with a two story building used as a restaurant and a patio for outdoor seating.



The surrounding properties are developed with retail to the east, Georgetown Optician to the west, a vacant building to the north, and residential to the south. In addition, there are other retail, restaurants, and offices within a block of the subject property.

BACKGROUND

On September 14, 1985, City Council granted Special Use Permit #1817 for the operation of a restaurant. Since the approval of SUP#1817, there have been several other special use permits granted for the 1106 King Street location, including:

<b>Date Granted</b>	<b>SUP#</b>	<b>Request</b>
18-May-96	96-0020	To add outdoor seating to an existing restaurant
24-Sep-02	2002-0049	Change of Ownership
16-Nov-02	2002-0079	Change in Hours of Operation
12-Jun-04	2004-0037	To add 15 additional outdoor seats
5-Oct-06	2006-0079	Change of Ownership

On December 15, 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 requests approval to increase the closing hours for the interior dining area of the restaurant from Sunday through Thursday at 11pm and Friday through Saturday at 12am to 1am Daily. The applicant has described the operations of the restaurant as follows:

Interior Dining Area Closing Hours:	<i>Existing-</i>	Sun- Thurs: 11 pm Fri- Sat: 12 am
	<i>Proposed-</i>	Daily: 1 am
Number of Existing Seats:	108- Indoors <u>+ 45- Outdoors</u> <b>153 Total Seats</b> (no change requested)	
Noise:	No additional noise impacts are anticipated	
Trash/Litter:	No additional trash/ litter impacts are anticipated	
Alcohol Sales: (no change requested)	On-premise alcohol sales- <i>Existing</i>	

PARKING

According to Section 8-300 (B) of the Zoning Ordinance, parking provisions do not apply to restaurants located within the Central Business District. However according to condition #37, the applicant shall participate in any organized program to assist with both employee and customer parking, and condition #26 requires employees to park off-street and/or provide employees who use mass transit with subsidized bus and rail fare media. In addition, the applicant will maintain an existing parking agreement for 33 parking spaces located at a nearby parking lot, per condition #7.

As part of the King Street Retail Strategy, a validated parking program, similar to “Park Alexandria,” was recommended in order to encourage the use of garages. The parking validation program would involve negotiating agreements with garage operators to accept a subsidy given by King Street restaurants to be used for customer’s parking. Both garage operators and restaurants calculate the amount that has been subsidized and the restaurant will pay the subsidized amount due to garage operators for allowing their customers to park there. At this time, staff is developing a plan to reactivate the Park Alexandria Program in early 2007.

ZONING/MASTER PLAN DESIGNATION

The subject property is located in the KR/King Street Urban Retail zone. Section 6-702 (A)(2) of the Zoning Ordinance allows a restaurant in the KR/King Street Urban Retail zone only with a Special Use Permit.

The proposed use is consistent with the King Street Retail Strategy chapter of the Master Plan.

BOARD OF ARCHITECTURAL REVIEW

The location of the restaurant is within the jurisdiction of the Old and Historic Board of Architectural Review. Since the applicant is not proposing any exterior changes to the building, the applicant is not required to file with the BAR for review. However, if there are any exterior changes to the building that are visible from the public right-of-way, the applicant will be required to file an application for review of the modifications with the Old and Historic Board of Architectural Review.

**II. STAFF ANALYSIS**

Staff has no objection to an increase in hours of operation for the restaurant. Staff finds the request to be reasonable and consistent with the hours of operation of existing restaurants in the area, such as Bistro Lafayette at 1118 King Street (SUP94-0315) closing at 1A.M. on weekends and Vermilion at 1120 King Street (SUP2003-0025) closing at 1A.M. daily. Staff is not aware of any concerns regarding the hours of operation of the existing restaurants in the area. In recent years, other restaurants have been approved with midnight or 1:00A.M. closing hours to address concerns of late night drinking and noise impacts spilling over into adjacent residential neighborhoods. Staff does not anticipate any impacts to the adjacent neighborhood regarding the increase in hours of operation. Staff is also recommending that the restaurant be allowed to open at 7am, consistent with other King Street area restaurants.

In addition, the restaurant does not have a parking requirement under the Central Business District section of the Zoning Ordinance, however the restaurant is required by the Old Town Restaurant Policy to address the need for off-street parking. The applicant has addressed the need by renting 33 parking spaces from a nearby parking lot. The business serves a combination of local workers, residents, and tourists who walk to the restaurant from nearby shops and hotels. In addition, staff has included a condition requiring the applicant to participate in any organized program to assist with both employee and customer parking.

Staff has included a condition requiring a review of the restaurant one year after this approval so if there are any problems with its operation, additional conditions may be imposed. With the proposed conditions, staff recommends approval of the subject application.

### 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) (SUP #1817)
2. Seating shall be provided inside for no more than 108 patrons. (P&Z) (SUP #96-0020)
3. Outside dining facilities shall be provided for no more than 30 patrons on the patio to the west of the building. An additional 15 seats may be added if and when the applicant has satisfied all of the Code Enforcement requirements in Conditions #28 through #32. (P&Z) (SUP#2004-0037)
4. **CONDITION AMENDED BY STAFF:** ~~Closing hours shall be no later than 11:00 P.M. Sunday through Thursday, and 12:00 midnight Friday and Saturday. Hours of operation shall be limited to between 7:00 am-1:00 am daily.~~ (P&Z) (SUP#2004-0037)
5. Trash and garbage shall be stored inside or in dumpsters which are fully enclosed within a refrigerated storage container at the rear of the property. Trash and garbage shall only be removed from the storage container for the purposes of collection and cleaning. (King Henry Court Owners Association) (SUP #96-0020)
6. Condition deleted. (SUP #96-0020)
7. The applicant shall provide a minimum of 33 off-street parking spaces within 500 feet of the site to accommodate restaurant patrons after the normal working hours in the evenings to the satisfaction of the Director of Planning and Zoning. On each anniversary of the approval of the special use permit, the applicant shall provide to the Director of Planning and Zoning copy of (1) the lease or other arrangement by which the applicant makes off-street parking available for customers and employees, (2) the materials advertising such off-street parking, and (3) a report concerning the utilization of off-street parking subsidies by the restaurant's patrons. (P&Z) (SUP #96-0020)
8. There will be no through vehicular traffic via the alley from Fayette Street. (PC) (SUP #1817)

9. **CONDITION DELETED BY STAFF:** ~~The applicant, in agreement with the owner of 101 King Henry Court, shall erect a suitable wall or fence. (PC) (SUP #1817)~~
10. No live entertainment shall be provided at the restaurant. (P&Z) (SUP #96-0020)
11. The hours of operation for the outdoor dining area shall be limited to 11:30 A.M. to 10:00 P.M. Sunday through Thursday, and limited to 11:30 A.M. to 11:00 P.M. Friday and Saturday. No meals may be served after 9:30 P.M. Sunday through Thursday and after 10:30 P.M. Friday and Saturday and the patio shall be closed and cleaned by 10:00 P.M. Sunday through Thursday and 11:00 P.M. Friday and Saturday. (P&Z) (PC) (SUP#2002-0079)
12. The applicant shall post the hours of operation at the entrance to the restaurant. (P&Z) (SUP #96-0020)
13. Alcoholic beverages may be sold for on-premises consumption only. (P&Z) (SUP #96-0020)
14. No food, beverages, or other material shall be stored outside. (P&Z) (SUP #96-0020)
15. 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 #96-0020)
16. Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers. (T&ES) (SUP #96-0020)
17. Loudspeakers shall be prohibited from the exterior of the building, and no music or amplified sound shall be audible at the property line. (T&ES) (SUP#2002-0079)
18. **CONDITION DELETED BY STAFF:** ~~The applicant shall require its employees who drive to use off-street parking. (P&Z) (SUP #96-0020)~~
19. Condition deleted. (City Council) (SUP#2002-0079)

20. The applicant shall (a) advertise the availability of off-street parking by including such notice in any advertising; (b) urge patrons who drive to use the space; and (c) post signs at the restaurant directing patrons to the availability of such parking. (P&Z) (SUP #96-0020)
21. **CONDITION DELETED BY STAFF:** ~~The applicant shall maintain the facade of the adjacent vacant building at 1104 King Street; the plywood shall be kept in good condition and shall be painted with a dark neutral color until the building is rehabilitated. The flower boxes on the facade shall either be removed or shall be repaired and kept in good condition. (P&Z) (SUP #96-0020)~~
22. **CONDITION AMENDED BY STAFF:** ~~The Director of Planning and Zoning shall review the special use permit one year after 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 which constitute repeat violations or which create a direct and immediate adverse zoning impact on the surrounding communities, (b) the director has received a request from any person to docket the permit for review, or (c) the director has determined that there are problems with the operation of the use and that new or revised conditions are needed.~~ The Director of Planning and Zoning shall review the special use permit one year after 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 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) (SUP#2004-0037)
23. **CONDITION DELETED BY STAFF:** ~~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 all employees. (Police) (SUP #96-0020)~~
24. **CONDITION AMENDED BY STAFF:** ~~The brick wall currently under construction across the patio area shall be fully completed to a height of 14 feet and composed entirely of brick, with the exception of a wooden door. This The wooden door shall be kept closed at all times while the outdoor dining area is open, except for purposes of taking deliveries during daylight hours. (King Henry Court Owners Association) (SUP #96-0020)~~



25. The applicant shall control cooking odors and smoke from the property to 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 # 2002-0049)
26. **CONDITION AMENDED 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.~~ 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. (P&Z) (T&ES) ~~(SUP#2004-0037)~~
27. 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, and to provide instruction preventing underage sales of alcohol. (P&Z) (SUP#2004-0037)
28. The applicant shall submit a seating plan that accurately reflects the conditions at the site along with the proposed seating arrangement. (Code Enforcement) (SUP#2004-0037)
29. A clear, unobstructed path measuring no less than 44 inches is required to be maintained from the building exit, through the courtyard to the approved exits to the public way. The pathway shall remain clear of tables, chairs and planters at all times. The approved pathway shall be designated by the applicant and approved by the Director of Code Enforcement. (Code Enforcement) (SUP#2004-0037)
30. A secondary exit from the courtyard shall comply with the USBC, remain free of obstructions and be properly illuminated at all times. The aforementioned shall include the exit door, pathway to the alley, and the alley leading to the public way. (Code Enforcement) (SUP#2004-0037)
31. Front gates of the courtyard shall remain unlocked and held in the open position at all times the building is occupied. (Code Enforcement) (SUP#2004-0037)
32. Any encroachment from any other structure that impacts the courtyard, requires a new review of the courtyard seating shall be revisited for compliance with the USBC. (Code Enforcement) (SUP#2004-0037)

33. Approval of this special use permit is contingent upon the applicant's compliance with all Code requirements for the outdoor seating area. (P&Z) (SUP#2004-0037)
34. **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](http://www.alexandriava.gov) or contact the City's Solid Waste Division at 703-519-3486 ext.132. (T&ES)
35. **CONDITION ADDED BY STAFF:** 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)
36. **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)
37. **CONDITION ADDED 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. (P&Z)
38. **CONDITION ADDED BY STAFF:** Provide a menu or list of foods to be handled at this facility to the Health Department prior to opening. (Health)

STAFF: Richard Josephson, Acting Director, Department of Planning and Zoning;  
James Hunt, 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 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.
- 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-6 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.
- 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 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:

- C-1 Additions and alterations to the existing structure and/or installation and/or altering of equipment therein requires a building permit (USBC 108.1). Five sets of plans, bearing the signature and seal of a design professional registered in the Commonwealth of Virginia, must accompany the written application (USBC 109.1).
- C-2 Alterations to the existing structure must comply with the current edition of the Uniform Statewide Building Code (USBC).

Health Department:

- C-1 An Alexandria Health Department Permit is required for all regulated Facilities.
- F-1 This facility is currently operating as Le Gaulois under an Alexandria Health permit issued to 1610 Restaurant, LLC.
- C-2 Five sets of plans are to 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-3 Approval must be obtained prior to user of the modified areas.
- C-4 The facility must comply with the Alexandria City Code, Title 11, Chapter 10, Smoking Prohibitions.
- C-5 A Certified Food Manager must be on duty during all hours of operations
- R-1 Provide a menu or list of foods to be handled at this facility to the Health Department prior to opening.

Parks & Recreation:

- F-1 No Comment

Police Department:

F-1 The Police Department conducted a check of the crime report for this applicant address ranging from January 1, 2004-November 20, 2006. The calls for service were:

1. April 27, 2005- Destruction of Property
2. June 5, 2006- Police Information/Suspicious Event

Therefore, the Police Department has no objections to the applicant extending their hours from 11:00 pm (Sun-Thurs) and 12:00 am (F-Sa) to 1:00 a.m. daily.

SUP #2006-0107  
1106 KING STREET

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