

Docket Item #3  
SPECIAL USE PERMIT #2006-0108

Planning Commission Meeting  
January 4, 2007

**ISSUE:** Consideration of a request for an amendment to an existing special use permit to increase seating, change the hours of operation, and add live entertainment.

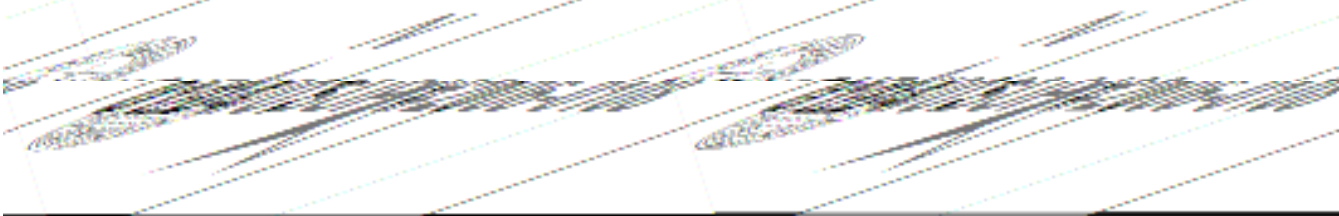
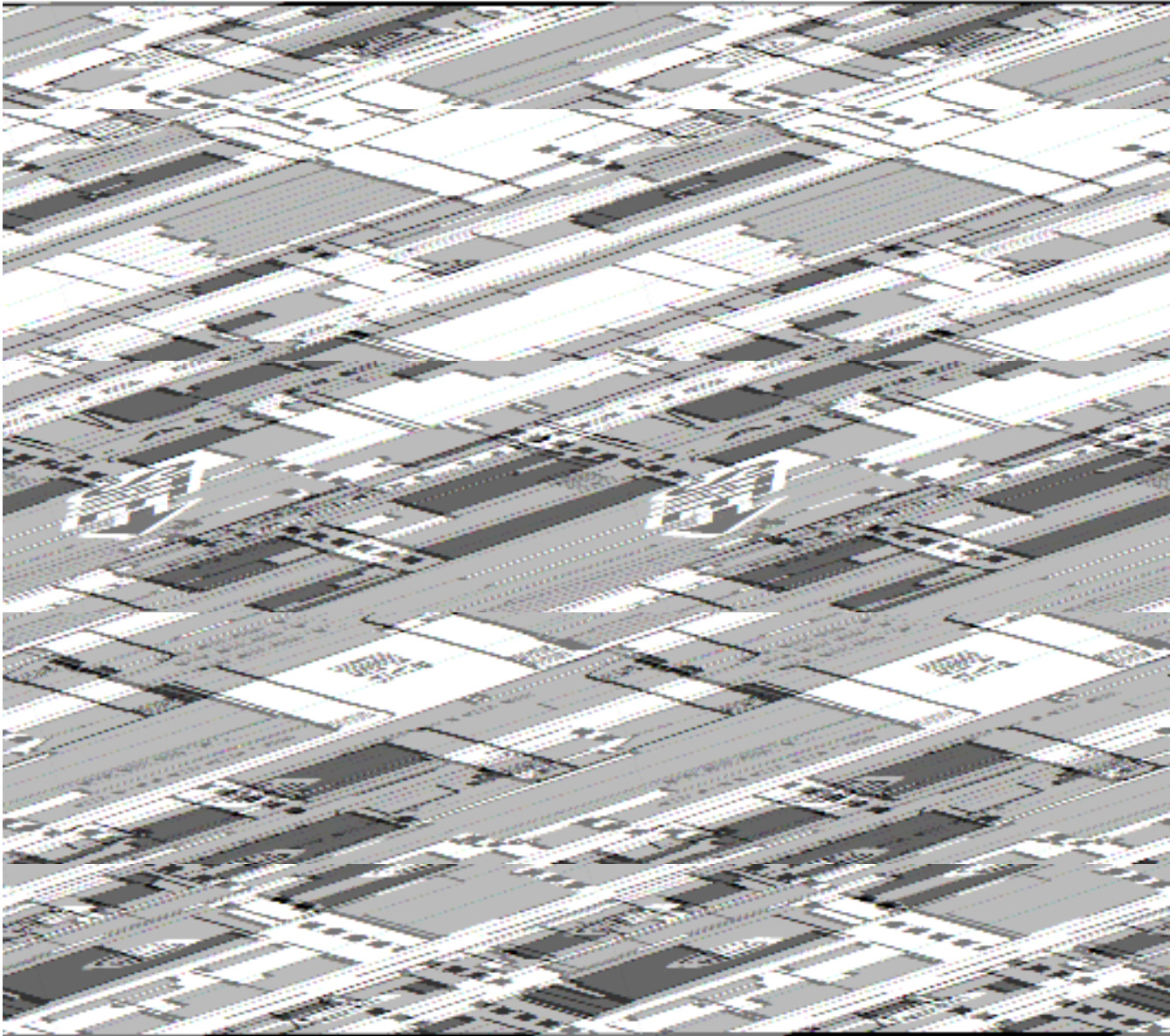
**APPLICANT:** Austin Grill, LLC  
by Duncan Blair, attorney

**LOCATION:** 801 & 803 King Street

**ZONE:** KR/King Street 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.



**I. DISCUSSION**

REQUEST

The applicant, Austin Grill, LLC, requests special use permit approval for an increase in seating, a change in the hours of operation, and the addition of live entertainment.

SITE DESCRIPTION

The subject properties are two lots of record with 44.2 feet of frontage on King Street, 121.4 feet of depth and a total lot area of 3,882 square feet. The site is developed with a two-story building. Access to the property is from King Street. The subject restaurant occupies the first and second floors.



A mix of office, retail, restaurant, and residential uses occupy the surrounding area. Immediately to the north is a thrift shop. To the west and east are a dry cleaning business and Bertucci's Restaurant. To the south is a Chico's clothing store and Eamon's Restaurant.

BACKGROUND

On February 25, 1989 the City Council granted SUP#1341-B to Kathryn Ball Clifford for a change of ownership of a 225 seat restaurant at 801-803 King Street, in existence since 1980. The new owner did not commence operation of the restaurant within one year of granting the special use permit and therefore the permit became void. Several other special use permits for restaurants have been granted for the property at 801- 803 King Street both before and after, including:

<b>Date Granted</b>	<b>SUP#</b>	<b>Request</b>	<b>Location</b>
13-Sep-80	#1341	172 seat restaurant on 2 floors	801 King Street
28-Jun-83	#1341-A	Expand 2nd floor of restaurant to add 75 seats	801- 803 King Street
28-Jun-88	#2124	180 seat restaurant (never opened)	801 King Street
13-Oct-90	#2438	160 seat restaurant (existing)	801- 803 King Street

On October 13, 1990, City Council granted SUP#2438 to South Austin Grill Limited Partnership for the operation of a restaurant. Since the restaurant began operation, staff has not been made aware of any issues regarding the business.

PROPOSAL

The applicant proposes to increase the number of seats within the existing restaurant from 160 to 175, change the hours of operation on Saturday and Sunday to permit the restaurant to open at 9am rather than 11:30am, and to add live entertainment. The applicant has described the proposed operations of the restaurant as follows:

Hours:	Sunday 9am- Midnight Monday-Thursday 11:30am- Midnight Friday 11:30am- 1am Saturday 9am- 1am <i>(Existing SUP allows Fri. - Sat. 11:30am-1am)</i>
Number of seats:	161 dining seats <u>+ 14 bar seats</u> 175 total seats <i>(Existing SUP allows 160 indoor seats)</i>
Noise:	The applicant does not anticipate high levels of noise from the restaurant.
Trash/Litter:	Trash will be commercially collected daily and employees will monitor the property and public right-of-way for litter daily.
Alcohol:	On premise alcohol sales
Live Entertainment:	The applicant proposes solo acoustic singers and karaoke.

PARKING

According to Section 8-300 (B) of the Zoning Ordinance, parking provisions do not apply to restaurants located within the Central Business District. According to condition #16, the applicant shall participate in any organized program to assist with both employee and customer parking, and condition #19 requires employees to park off-street. In addition, the applicant will maintain an existing agreement with the parking garage located at 117 N. Alfred Street to provide parking for patrons.

As part of the King Street Retail Strategy, a validated parking program, similar to “Park Alexandria,” is 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.

#### BOARD OF ARCHITECTURAL REVIEW

The restaurant is located 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.

#### 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.

## **II. STAFF ANALYSIS**

Staff has no objection to the increased seating, change in hours of operation, and the proposed live entertainment. Previously other restaurants were granted SUP's for a greater number of seats than is currently proposed. Since the approval of SUP#2438 was granted to operate Austin Grill, staff has not received any complaints regarding the existing restaurant operation. The King Street Retail Strategy indicates a need for active uses along King Street and staff finds that this small increase in seating will continue to promote a more active street.

Staff has no objection to the earlier opening hour of 9am. The proposed hours are consistent with what has been granted for other area restaurants. Staff has included a condition permitting the restaurant to open at 7am daily.

Staff has no objection to the request for live entertainment. The King Street Retail Strategy indicates that, "King Street also lacks a significant base of entertainment venues, which often forms an integral part of a main street retail environment, creates return visitors to the street and provides nighttime activity."

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 maintained an existing agreement with the parking garage located at 117 North Alfred Street pursuant to condition #8. 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 provide employees off-street parking and/or with subsidized transit fare media. At this time, staff is developing a plan to reactivate the Park Alexandria Program in early 2007.

Austin Grill wishes to continue on-premise alcohol sales and staff has included condition #21 to indicate that alcohol sales are permitted. Staff has also 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 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. That the permit be granted to the applicant only or to any corporation in which the applicant has a controlling interest. (P&Z)
2. **CONDITION AMENDED BY STAFF:** That seating be provided inside for no more than ~~460~~ 175 patrons. (P&Z)
3. That no outside dining facilities be located on the premises. (P&Z)
4. **CONDITION AMENDED BY STAFF:** That the hours during which the business is open to the public be restricted to ~~11:30A.M. 12:00 Midnight, Sunday through Thursday, and between 11:30A.M. to 1:00A.M. on Friday and Saturday, as requested by the applicant~~ 7:00A.M.- 12:00AM, Sunday through Thursday, and between 7:00 A.M. and 1:00 A.M. Friday and Saturday. (P&Z)
5. That no food, beverages, or other material be stored outside. (P&Z)
6. **CONDITION AMENDED BY STAFF:** That trash and garbage be stored inside or in a dumpster 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)

7. That trash and garbage be collected daily when the business is open. (P&Z)
8. That the applicant provides evidence of 20 off-street parking spaces to serve restaurant patrons between the hours of 6:00P.M. and 1:00A.M. daily. (PC)
9. **CONDITION ADDED BY STAFF:** 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)
10. **CONDITION ADDED BY STAFF:** Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers. (T&ES)
11. **CONDITION ADDED BY STAFF:** 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)
12. **CONDITION ADDED BY STAFF:** 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 P&Z) (T&ES)
13. **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)
14. **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)~~
15. **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)

16. **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)
17. **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 and 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)
18. **CONDITION ADDED BY STAFF:** 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. (T&ES)
19. **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)
20. **CONDITION ADDED BY STAFF:** On-site alcohol service is permitted. (P&Z)
21. **CONDITION ADDED BY STAFF:** 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)
22. **CONDITION ADDED BY STAFF:** The applicant shall post the hours of operation at the entrance of the business. (P&Z)



23. **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 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)

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.
- 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 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 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 The addition of additional seating will require a new Certificate of Occupancy due to a change in the number of occupants. As a result of the proposed additional seating / occupants an egress plan showing fixture location, aisles and exit doors shall be submitted for review.
- C-1 Any alterations to the existing structure must comply with the current edition of the Uniform Statewide Building Code (USBC).
- C-2 Alterations to the existing structure and/or installation and/or altering of equipment therein requires a building permit. Five sets of plans, bearing the signature and seal of a design professional registered in the Commonwealth of Virginia, must accompany the written application. The plans must include all dimensions, construction alterations details, kitchen equipment, electrical, plumbing, and mechanical layouts and schematics.
- C-3 Bathroom facilities are required for both men and women. These facilities shall be accessible to the handicapped as required by Chapter 11 of the USBC.
- C-4 Required exits, parking and accessibility for persons with disabilities must be provided to the building.

Health Department:

- F-1 No Comment

Parks & Recreation:

- F-1 No Comment

Police Department:

- F-1 The Police Department has no objections to the applicant increasing its maximum number of seating from 160 to 175.
- F-2 The Police Department has no objections to the business changing its opening hours on Saturdays and Sundays from 11:30 am to 9 am.
- F-3 The applicant is seeking to retain a current "ABC On" license only. The Police Department has no objections to the applicant selling alcohol beverages on premises only.

SUP #2006-0108  
801 & 803 KING STREET

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