

Docket Item #9
SPECIAL USE PERMIT #2007-0103

Planning Commission Meeting
November 8, 2007

ISSUE: Consideration of a request for a special use permit to operate a restaurant with expanded hours, increased seating and on premises alcohol sales.

APPLICANT: Hank's Oyster Bar Old Town, LLC
by David Chamowitz, attorney

STAFF: Allison Anderson
Allison.anderson@alexandriava.gov

LOCATION: 1026 King Street
Parcel address: 1024 King Street

ZONE: KR/King Retail Urban 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, Hank's Oyster Bar Old Town, LLC, requests special use permit approval for expanded hours, increased seats, and on premises liquor sales at a restaurant located at 1026 King Street.

SITE DESCRIPTION

The subject property is one lot of record with 28 feet of frontage on King Street, 100 feet of depth and a total lot area of 2,771 square feet. The site is developed with a restaurant. Access to the property is from King Street.

The surrounding area is occupied by a mix of commercial and office uses. Immediately to the north is a retail store. To the south is a parking lot. To the east and west are a retail store and a deli.

BACKGROUND

On March 16, 1991, City Council granted Special Use Permit #2472 to Taekyun Kim and Taesok Kim for operation of a 40 seat restaurant located at 1026 King Street, named Egg Roll House. On March 20, 2001 staff approved administrative request, Special Use Permit #2001-0002, to change the ownership of the existing restaurant to Global Connections LLC, by Teodula R. Pascual, operating Speedy's Chicken Place. On November 12, 2001, City Council approved Special Use Permit #2001-0096, a request for an expansion of the restaurant. On September 12, 2007 staff approved an administrative request, SUP #2007-0093, to change the ownership to Hank's Oyster Bar Old Town, LLC.

On October 4, 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 major violations of the special use permit. The operating hours were advertised as noon to 9:00pm on Sundays as opposed to noon to 8:00pm as approved.

PROPOSAL

Hours: Monday – Sunday, 7:00am – 1:00am

Number of seats: 60

Noise: No unusual or disruptive noise is anticipated.

Trash/Litter: Trash will be collected daily.

PARKING

According to Section 8-300 of the Zoning Ordinance, parking provisions do not apply within the Central Business District.

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, the validated parking program does not exist, however it is anticipated to be operational by December 2007.

ZONING/MASTER PLAN DESIGNATION

The subject property is located in the KR zone. Section 6-702 of the Zoning Ordinance allows a restaurant 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 requested changes to the special use permit. The proposed changes are consistent with the King Street Retail Strategy in that they will help enliven and activate the street. The proposed 1:00am closing time is consistent with other restaurants in the area. Restaurant closings range from 10:00pm for Bistro Lafayette at 1118 King Street, to 2:00am for Café Salsa at 808 King Street. The Vermillion restaurant at 1120 King Street operates until 11:00 on Friday and Saturday, and the Café Salsa Restaurant at 808 King Street operates until 2:00am on Fridays and Saturday. The Flying Fish at 815 King Street operates until 1:00am weeknights, and 2:00am weekends.

The applicant will need to obtain a new certificate of occupancy prior to adding the additional seating.

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 corporation in which the applicant has a controlling interest. (P&Z)(SUP #2472)
2. **CONDITION AMENDED:** Seating shall be provided inside for no more than ~~60~~ 40 patrons. (P&Z) (SUP #2472)
3. The applicant shall be able to use the first and second floors for customer seating and customer service. (P&Z) (SUP #2001-0096)
4. No outside dining facilities shall be located on the premises. (P&Z) (SUP #2472)
5. **CONDITION AMENDED:** The hours during which the restaurant is open to the public shall be restricted to ~~11:00AM to 11:00PM, Monday through Thursday, and from 11:00AM to 10:00PM on Friday and Saturday, and noon to 8:00PM on Sunday~~ 7:00 A.M. to 1:00 A.M., daily, as requested by the applicant. (P&Z)
6. No food, beverage, or other material shall be stored outside. (P&Z) (SUP #2472)
7. Trash and garbage shall be stored inside or in a dumpster. (P&Z) (SUP #2472)
8. Trash and garbage SHALL be collected daily when the business is open. (P&Z) (SUP #2472)
9. Two standard City trash containers shall be furnished to the City of Alexandria for installation by the City on the adjacent public right-of-way. (P&Z) (SUP #2472)
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 more often if necessary, to prevent an unsightly and unsanitary accumulation, on each day that the business is open to the public. (P&Z) (SUP #2472)
11. No live entertainment shall be provided at the restaurant. (P&Z) (SUP#2001-002)
12. **CONDITION AMENDED:** The applicant shall be permitted to sell alcohol, beer and wine for on-premises consumption only. (Police) (P&Z)
13. The applicant shall post the hours of operation at the entrance to the restaurant. (P&Z)(SUP#2001-0002)

14. Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers. (T&ES)(SUP#2001-0002)
15. **CONDITION AMENDED:** All loudspeakers shall be prohibited from the exterior of the building and no amplified sounds shall be audible at the property line. No amplified sound shall be audible at the property line. (P&Z) (T&ES) (SUP #2007-0003)
16. **CONDITION AMENDED:** The applicant shall require its employees who drive to work 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) (P&Z) (SUP #2007-0093)
17. **CONDITION AMENDED:** 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. The applicant shall direct patrons to the availability of parking at nearby public garages and shall participate in an equivalent parking subsidy program by which the regular parking price is discounted by at least \$1. (P&Z) (SUP #2007-0093)
18. 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)(SUP#2001-0002)
19. **CONDITION AMENDED:** 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 and Environmental Services. (T&ES) (SUP #2007-0093)
20. **CONDITION ADDED:** 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)
21. **CONDITION ADDED:** 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)

22. The applicant shall contact the Crime Prevention Unit of the Alexandria Police Department for a security survey and robbery awareness program for all employees. (Police) (SUP#2001-0002)
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#2001-0096)
24. The applicant shall comply with any regulations adopted as part of a smoke-free ordinance. (P&Z) (SUP #2007-0033)
25. **CONDITION ADDED:** 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)
26. **CONDITION ADDED:** 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)
27. 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) (SUP #2001-00096)

STAFF: Richard Josephson, Deputy Director, Department of Planning and Zoning;
Allison Anderson, 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. (T&ES)
- 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. (T&ES)
- R-3 All loudspeakers shall be prohibited from the exterior of the building and no amplified sounds shall be audible at the property line. (T&ES)
- 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. (T&ES)
- 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. (T&ES)
- 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. (T&ES)
- 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. (T&ES)
- 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 Applicant has indicated in his application that he is proposing 60 seats in the restaurant. The approved Fire Prevention Permit (Occupancy) allows for fewer than 50 occupants. Additionally, the approved Special Use Permit allows for only 40 – seats. A new certificate of occupancy is required for the proposed addition of seating.
- C- 1 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- 2 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- 3 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.

Health Department:

- F-1 No Comment

Parks & Recreation:

- F-1 No Comment

Police Department:

- R-1 The applicant is to contact the Community Relations Unit of the Alexandria Police Department at 703-838-4520 regarding a security survey for the business.
- R-2 The applicant is to contact the Community Relations Unit of the Alexandria Police Department at 703-838-4520 regarding robbery readiness training for all employees.
- F-1 The Police Department has no objections to the extended hours and no objections to the increased seating.
- F-2 The applicant is seeking an “ABC On” license only. The Police Department has no objections.
- F-3 It is requested that this SUP is reviewed after one year.

SUP #2007-0103
1026 King Street (Parcel Add: 1024 King Street)

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