

Docket Item # 7
SPECIAL USE PERMIT #2007-0104

Planning Commission Meeting
December 4, 2007

ISSUE: Consideration of a request for a special use permit to increase the hours of operation and the number of seats at a restaurant.

APPLICANT: Gil Mao & James Mao
Ernie's Crab House

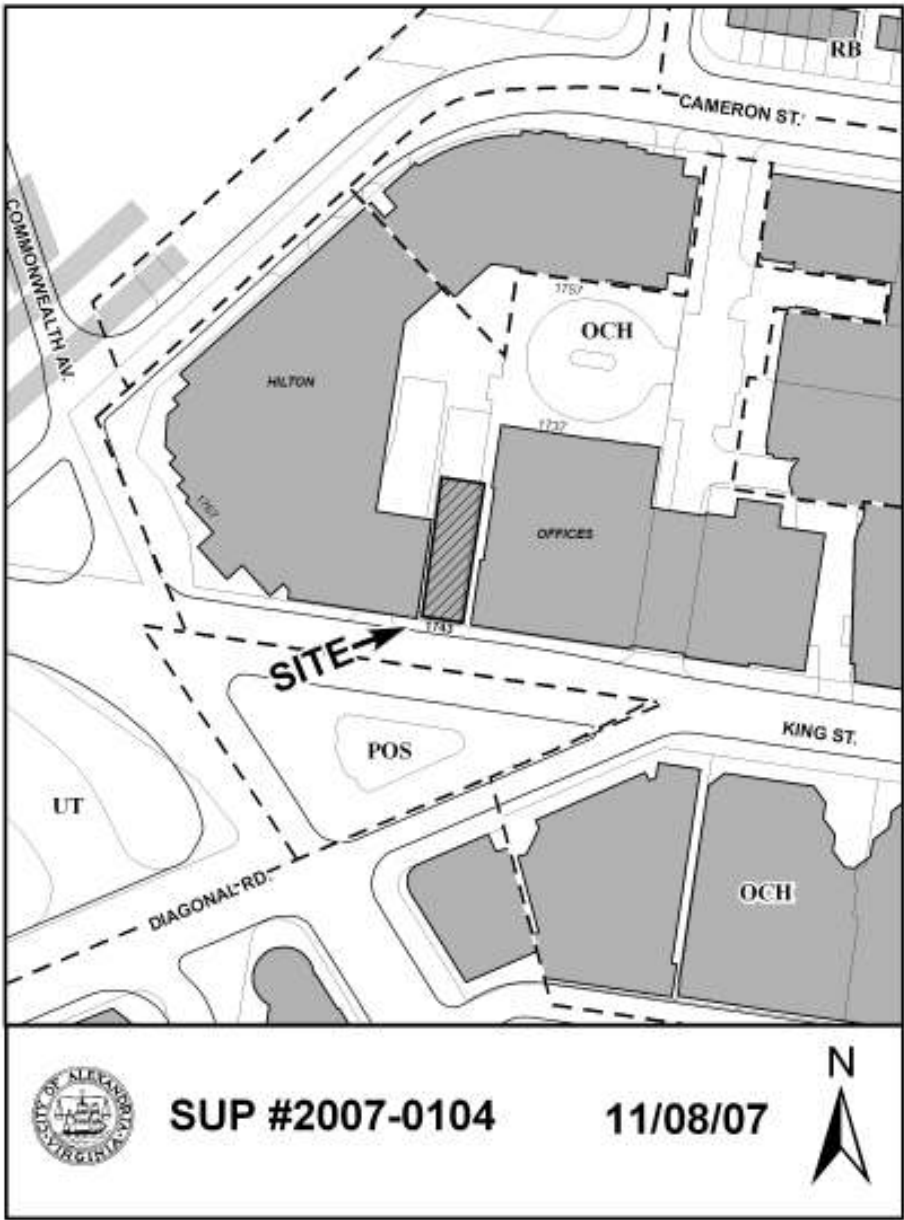
LOCATION: 1743 King Street

ZONE: KR/King Street Retail

PLANNING COMMISSION ACTION, NOVEMBER 8, 2007: The Planning Commission noted the deferral of the request.

Reason: The applicant failed to comply with the requirements for legal notice.

STAFF RECOMMENDATION: Staff recommends **approval** of the request for the increase in hours and the increase in the number of seats, 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, Gil Mao, requests special use permit approval for Sunday operating hours for a restaurant located at 1743 King Street and additional seating in the rear courtyard of the restaurant.

SITE DESCRIPTION

The subject property is one lot of record with 30 feet of frontage on King Street, 150 feet of depth and a total lot area of 4,500 square feet. The site is developed with a restaurant, formerly operating as Thai Peppers. Access to the property is from King Street.



The surrounding area is occupied by a mix of retail and commercial. Immediately to the north is the driveway for the Hilton Hotel. To the south is the King Street Gardens Park. To the east and west are the Hilton Hotel and the Wyndham Resort.

BACKGROUND

On December 19, 1983, City Council granted Special Use Permit #1618 to RRCD Enterprises Inc. for the operation of the Owen Thai Restaurant at 1743 King Street. A change of ownership, SUP #2000-0147, was administratively granted on February 6, 2001 to Grand Diamond Inc., for the Thai Peppers Restaurant. On September 12, 2007, SUP #2007-0075, granted a change in ownership to James Y. Mao.

The restaurant is currently closed.

PROPOSAL

The applicant is proposing to operate the restaurant on Sundays, maintaining the same operating hours on weekdays as the previous restaurant. The applicant is also proposing to build an outdoor patio with covered seating for 50 patrons in the rear of the property.

Hours: Sunday - Thursday, 10:00am –Midnight
 Friday - Saturday, 10:00am – 2:00am

Number of seats: 100 inside
 50 outside, in the rear courtyard

Noise: High noise levels are not anticipated by the applicant

Trash/Litter: Trash will be comprised mostly of food waste and paper. The applicant is anticipating generating two bags of trash daily, which will be collected daily.

PARKING

The restaurant is located in the King Street Transit Parking District. According to Section 8-400 (B)(4) of the Zoning Ordinance, a restaurant requires one parking space for every ten seats. A restaurant with 150 seats will be required to provide 15 off-street parking spaces. The applicant has currently contracted with Colonial Parking for the required parking.

ZONING/MASTER PLAN DESIGNATION

Section 6-702 (A)(2) of the Zoning Ordinance allows a restaurant in the KR zone only with a special use permit.

The proposed use is consistent with the King Street Metro Small Area Plan chapter of the Master Plan which designates the property for commercial use.

II. STAFF ANALYSIS

Staff is supportive of the addition of Sunday hours for the restaurant. Sunday hours are typical for other restaurants in the area. There are several hotels in the area and a restaurant with Sunday hours will serve residents and tourists.

Staff does have concerns regarding the outdoor seating proposal. The applicant has requested to build an outdoor patio and a pavilion-type structure in the rear of the property. This area is exposed to the neighboring hotels and there is a small stairway to the area from the Hilton's driveway. Staff has concerns regarding the level of noise and potential odor that may arise from a use such as this. Staff is also aware that there have been issues with rodents in this area. Staff is concerned that this outdoor seating may attract rodents unless an aggressive abatement program is instituted and has added a condition requiring such a program. The applicant has also proposed to have trash picked up six days a week. With the type of waste that would be generated from a crab house, staff is adding a condition requiring that trash be picked up daily.



Because of potential negative impacts of the outdoor dining, staff is recommending that this SUP be reviewed after six months of operation and again at 18 month of operation.

Staff is recommending approval of the increase in hours, and the increased seating.

With these the following conditions, staff recommends approval of the special use permit to increase the hours of the restaurant.

III. RECOMMENDED CONDITIONS

Staff recommends **approval** subject to compliance with all applicable codes and ordinances and the following conditions:

1. **CONDITION AMENDED:** The applicant shall maintain the required 15 off-street parking spaces ~~be provided~~ within 500 feet of the subject building after 6:00 P.M., ~~and that if public parking becomes available that the applicant use their best efforts to meet code requirements.~~ (P&Z)
2. The applicant shall install a sprinkler system. (Fire) (SUP #1618)
3. The special use permit shall be granted to the applicant or to any corporation in which the applicant has a controlling interest only. (P&Z) (SUP #1618)
4. **CONDITION AMMENDED:** Seating shall be provided inside for no more than 100 patrons inside and 50 patrons outside. (P&Z) (SUP #1618)
5. **CONDITION DELETED:** ~~No outside dining facilities shall be located on the premises.~~ (P&Z) ~~(SUP #1618)~~
6. **CONDITION AMENDED:** The hours during which the business is open to the public shall be restricted to between 10:00 A.M. and ~~12:00~~ Midnight, ~~Monday~~ Sunday through Thursday ~~daily~~, and from 10:00 A.M. to 2:00 A.M. Friday and Saturday. (P&Z) ~~(SUP #1618)~~
7. No food, beverages, or other material shall be stored outside. (P&Z) (SUP #1618)
8. Trash and garbage shall be stored inside or in a dumpster. (P&Z) (SUP #1618)
9. Trash and garbage shall be collected daily when the business is open. (P&Z) (SUP #1618)
10. No live entertainment shall be provided at the restaurant. (P&Z) (SUP #2000-0147)

11. On site alcohol service is permitted; no off-premise sales are permitted. (P&Z) (SUP #2000-0147)
12. The applicant shall post the hours of operation at the entrance to the restaurant. (P&Z) (SUP #2000-0147)
13. 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 and unsightly or unsanitary accumulation, on each day that the business is open to the public. (P&Z) (SUP #2000-0147)
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 #2000-0147)
15. All loudspeakers shall be prohibited from the exterior of the building and no amplified sound shall be audible at the property line. (P&Z) (T&ES) (SUP #2007-0075)
16. The applicant shall require employees who drive to work 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) (SUP #2007-0075)
17. 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 #2000-0147)
18. **CONDITION AMENDED:** The applicant shall control cooking odors, ~~and~~ smoke and any other air pollution from operations at the site and 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 #2000-0147~~)
19. The applicant shall contact the Crime Prevention Unit of the Alexandria Police Department at 703-838-4520 for a security survey and robbery awareness program for employees. (Police) (SUP #2007-0075)
20. 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) (SUP #2007-0075)

21. 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 approval. (T&ES) (SUP #2007-0075)
22. Provide a menu or list of foods to be handled at this facility to the Health Department prior to opening. (Health) (SUP #2007-0075)
23. The applicant shall comply with any requirements adopted as a part of a smoke-free restaurant ordinance. (P&Z) (SUP #2007-0075)
24. **CONDITION ADDED:** The applicant shall contribute \$500.00 for (2) replacement street trees in the nearby vicinity of the restaurant on 1763 King Street. The monetary contribution shall be submitted to the Department of Recreation, 1108 Jefferson St. within 60 days of City Council approval. (Recreation)
25. **CONDITION ADDED:** The applicant shall provide adequate screening and beautification of the outdoor dining area. A site plan and landscape plan shall be submitted to RP&CA for review. (Recreation)
26. **CONDITION ADDED:** All landscaping on the property shall be maintained in good condition and replaced as needed. (Recreation)
27. **CONDITION ADDED:** The applicant shall submit a detailed plan showing seating, lighting, landscaping and access to the satisfaction of the Directors of Planning and Zoning and Code Enforcement prior to the commencement of outdoor seating. (P&Z)
28. **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)
29. **CONDITION ADDED:** The Director of Planning and Zoning shall review the special use permit after it has been operational for six months and again at eighteen months, 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)

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:

- 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.
- C-4 A seating/table layout for the outdoor dining, complete with dimensions showing all aisle and passageway clearances, will be required for review and approval prior to occupancy (USBC 1004.2).
- C-5 A rodent control plan shall be submitted to this office for review and approval prior to occupancy. This plan shall consist of the following:
- (a) Measures to be taken to control the placement of litter on site and the trash storage and pickup schedule.
 - (b) How food stuffs will be stored on site.
 - (c) Rodent baiting plan.

Health Department:

- F-1 This facility is currently vacant.
- C-1 An Alexandria Health Department Permit is required for all regulated facilities.
- C-2 This facility and all modifications must meet current Alexandria City Code requirements for food establishments.
- C-3 Five sets of plans must 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 plans review of food facilities.
- C-4 Permits and/or approval must be obtained prior to operation.
- C-5 The facility must comply with the Alexandria City Code, Title 11, Chapter 10, Smoking Prohibitions.
- C-6 Certified Food Managers must be on duty during all hours of operation.
- C-7 Restrooms, including those in common areas, serving the restaurant, are to meet Alexandria City Code, Title 11, Chapter 2 requirements.
- R-1 Provide a menu or list of foods to be handled at this facility to the Health Department prior to opening.

Parks & Recreation:

- R-1 The applicant shall contribute \$500.00 for (2) replacement street trees in the nearby vicinity of the restaurant on 1763 King Street. The monetary contribution shall be submitted to the Department of Recreation, 1108 Jefferson St. within 60 days of City Council approval.
- R-2 The applicant shall provide adequate screening and beautification of the outdoor dining area. A site plan and landscape plan shall be submitted to RP&CA for review.
- R-3 All landscaping on the property shall be maintained in good condition and replaced as needed.

Police Department:

- F-1 The Police Department has no objections to the restaurant extending their hours on Sundays to 10:00 a.m. – 12:00 a.m.

- F-3 The Police Department has no objections to the business increasing their outdoor seating.

- F-2 The applicant is seeking an “ABC On” and “ABC Off” license. The Police Department has no objections to the “ABC On” license. The Police Department does not recommend and is opposed to the “ABC Off” license.

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