

Docket Item #8
SPECIAL USE PERMIT #2007-0124

Planning Commission Meeting
January 3, 2008

ISSUE: Consideration of a request for a special use permit to operate a restaurant.

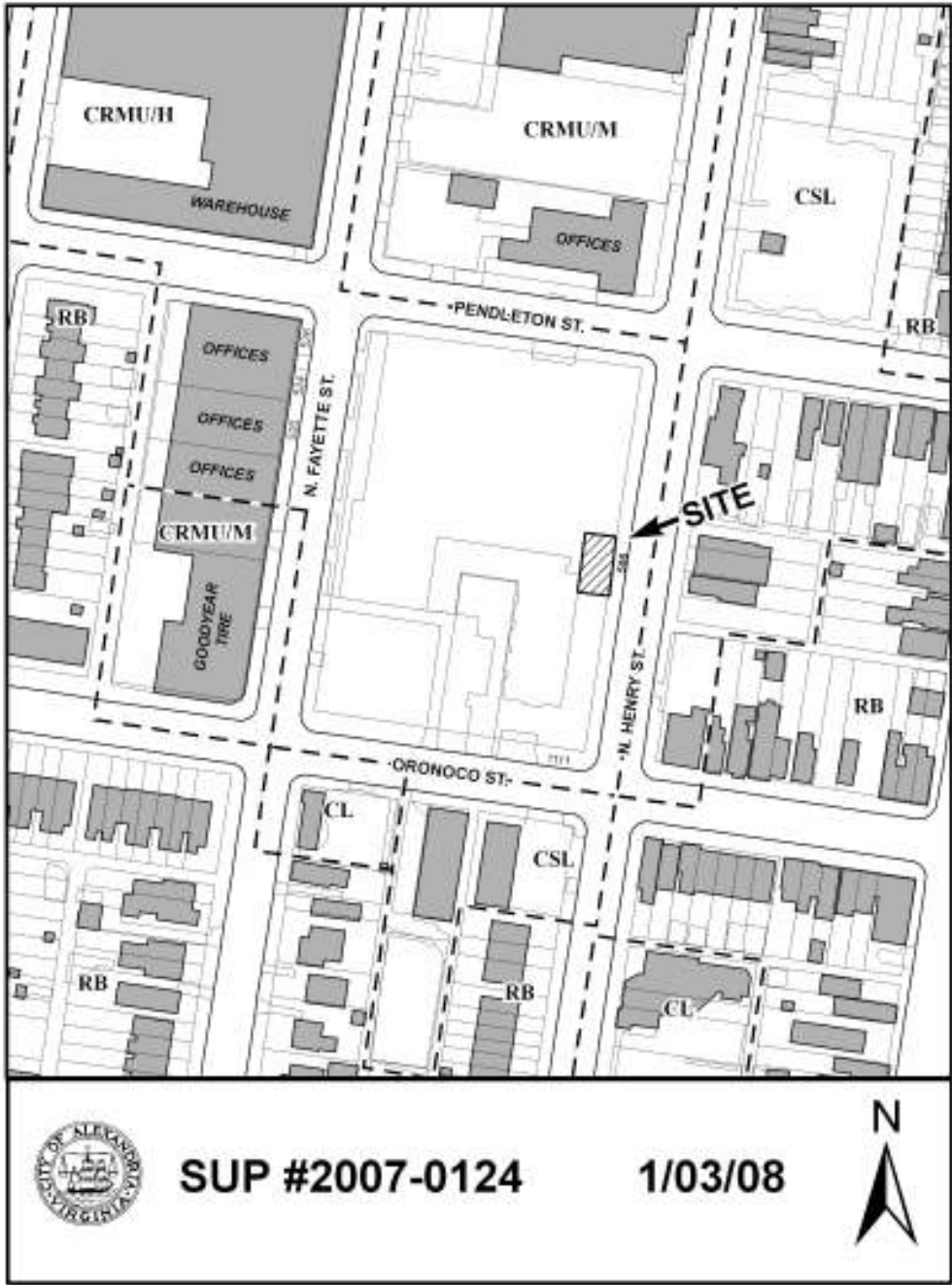
APPLICANT: Diamond Commercial, LLC
by David Chamowitz

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

LOCATION: 506 N. Henry Street

ZONE: CRMU-H/Commercial Residential Mixed Use High

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 #2007-0124

1/03/08



I. DISCUSSION

REQUEST

The applicant, Diamond Commercial, LLC, requests approval of special use permit for the operation of a restaurant located at 506 North Henry Street.

SITE DESCRIPTION

The subject property is comprised of 6 lots of record with 353 feet of frontage on North Fayette, 246 feet of depth and a total lot area of 87,174 square feet. The site is developed by the Monarch development which consists of residential condominiums on the upper floors with ground level retail. The proposed restaurant is located on the North Henry Street frontage. Parking is provided within a two level below-grade parking garage accessed from Pendleton Street



The surrounding area is occupied by a mix of residential, retail, personal service and office and automotive repair uses. Immediately to the north is a parking lot and auto garage. To the south is a Texaco gas station. To the east is a hair salon and office space. To the west is an auto garage, retail and office space. The property on the corner to the north-west of the subject property, 621 North Payne Street is approved to be developed with a condominium development.

BACKGROUND

The subject unit is a vacant ground floor retail space intended for retail, personal service or restaurant uses.

PROPOSAL

The applicant proposes to operate a Chinese restaurant with carry-out, delivery and limited indoor seating. The applicant wishes to have the option of providing outdoor seating on the grounds of the Monarch if customer demand dictates it.

Hours: 9:00 am – 12:00 am, daily

Number of seats: 12

Delivery: Maximum of 2 drivers, drivers will use their personal vehicles and park off-street

Noise: No noise will be audible at the property line

Trash/Litter: Trash will be collected daily; the development has provided trash cans on the street to control potential litter

PARKING

Parking for all tenants of the first floor retail space in the Monarch mixed use development is provided in the on-site underground parking garage with access from Pendleton Street. Pursuant to DSUP #2003-0019, 73 parking spaces are required for the first-floor retail space and 75 are provided.

According to Section 8-200(A)(8) of the Zoning Ordinance, a restaurant requires one parking space for every four seats. The proposed restaurant will contain 12 seats and therefore will be required to provide 3 off-street parking spaces. The required parking spaces are provided in the interior alley and the below ground parking garage.

ZONING/MASTER PLAN DESIGNATION

The subject property is located in the CRMU-H zone, Commercial Residential Mixed Use (high). Section 5-303 of the Zoning Ordinance allows a restaurant in the CRMU-H zone only with a special use permit.

The proposed use is consistent with the Braddock Road Metro Small Area Plan chapter of the Master Plan which designates the property for residential, commercial and office mixed use.

II. STAFF ANALYSIS

Staff is supportive of the Special Use Permit at the Monarch Development. The ground floor was designated for community oriented retail and service uses. Staff feels that a small restaurant is a good fit for the high visibility of North Henry Street. To help enhance the vibrancy of the site and neighborhood, staff is including a condition to allow administrative approval of outdoor seating should the applicant wish to incorporate that into the restaurant.

While supportive of the application, staff has heard from community members with regard to the late hours of operation. Some community members have expressed concern that a closing hour of midnight will increase the potential for conflicts in the immediate neighborhood. These concerns were discussed by the Inner City Civic Association at their December 12th meeting. While there was opposition to the late hours, there were also citizens who felt that a more active streetscape would help to make the neighborhood safer in the evenings. The neighborhood seems to be divided over the issue of the closing hour. Staff feels that the closing time should correspond to the coffee shop that was approved for the Monarch in September. In that case the applicant was granted a closing hour of midnight. Staff has included conditions requiring the applicant to prevent loitering outside the premises.

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)
2. The hours of operation of the restaurant shall be limited to 9:00 am – 12:00 am, daily. (P&Z)
3. The applicant shall post the hours of operation at the entrance of the business. (P&Z)
4. 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)
5. 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. (P&Z)
6. Interior storage cabinets, carts, window signs, posters, shelving, boxes, coat racks, storage bins, closets, and similar items shall not block the visibility of the interior of the store from the street. To the extent possible, the applicant shall provide seating/dining areas adjacent to the Henry Street windows. (P&Z)
7. The window on the courtyard must have lighted display and/or signage to the satisfaction of the director of Planning & Zoning. (P&Z)
8. The vestibule wall must allow the interior of the restaurant to be visible from the street to ensure an active street presence. (P&Z)
9. The applicant must supply a trash removal plan to prevent the degradation of the interior courtyard to the satisfaction of the director of Planning & Zoning. (P&Z)
10. The restaurant shall contain a minimum of 12 seats and a maximum of 20 seats indoors. Upon request by the applicant, staff may administratively approve outdoor dining of up to 10 seats on the site. (P&Z)
11. All exterior signage must be compatible with the Monarch development to the satisfaction of the director of Planning & Zoning. (P&Z)
12. Delivery drivers must use off-street parking at all times. (P&Z)

13. The applicant shall not permit carryout customers to loiter outside the business. (P&Z)
14. The applicant shall comply with any requirements adopted as a part of a smoke-free ordinance. (P&Z)
15. 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)
16. Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys, or storm sewers. (T&ES)
17. 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)
18. All loudspeakers shall be prohibited from the exterior of the building and no amplified sounds shall be audible at the property line. (T&ES)
19. 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)
20. 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)
21. 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)

22. Provide a menu or list of foods to be handled at this facility to the Health Department prior to opening. (Health)
23. 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 and robbery readiness training for all employees. (Police)
24. No food, beverages, or other material shall be stored outside. (P&Z)
25. Deliveries to the business shall not take place between the hours of 7:00 a.m. and 9:30 a.m., or between 4:00 p.m. and 6:00 p.m., Monday through Friday. (P&Z)
26. 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)

STAFF: Faroll Hamer, Director, Department of Planning and Zoning
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. (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 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 Prior to the application for new Certificate of Occupancy, the applicant shall submit a building permit for a change of use. Drawings prepared by a licensed architect or professional engineer shall accompany the permit application. These plans shall show provide existing conditions, construction type data, and a plot plan. In addition, these plans shall show proposed conditions and provide data by the design professional which details how the proposed use will comply with the current edition of the Virginia Uniform Statewide Building Code for the new use in the area of structural strength, means of egress, passive and active fire protection, heating and ventilating systems, handicapped accessibility and plumbing facilities.
- C-2 This structure contains mixed use groups and is subject to the mixed use and occupancy requirements of USBC 302.3.
- C-3 Alterations to the existing structure must comply with the current edition of the Uniform Statewide Building Code (USBC).
- C-4 A fire prevention code permit is required for the proposed operation. An egress plan showing fixture location, aisles and exit doors shall be submitted for review with the permit application.
- C-5 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-6 When a change of use requires a greater degree of structural strength, fire protection, exit facilities or sanitary provisions, a construction permit is required.
- C-7 Toilet Rooms for Persons with Disabilities:
 - (a) Water closet heights must comply with USBC 1109.2.2
 - (b) Door hardware must comply with USBC 1109.13
- C-8 Toilet Facilities for Persons with Disabilities: Larger, detailed, dimensioned drawings are required to clarify space layout and mounting heights of affected accessories. Information on door hardware for the toilet stall is required (USBC 1109.2.2).
- C-9 The following code requirements apply where food preparation results in the development of grease laden vapors:

- (a) All cooking surfaces, kitchen exhaust systems, grease removal devices and hoods are required to be protected with an approved automatic fire suppression system.
- (b) A grease interceptor is required where there is drainage from fixtures and equipment with grease-laden waste located in food preparation areas of restaurants. Food waste grinders can not discharge to the building drainage system through a grease interceptor.

- C-10 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:

- C-1 An Alexandria Health Department Permit is required for all regulated facilities. Permits are not transferable.
- C-2 Permits must be obtained prior to operation
- C-3 Five sets of plans of each facility must be submitted to and approved by this department prior to construction. Plans must comply with 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-4 Certified Food Managers must be on duty during all hours of operation.
- 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:

- 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 applicant is not seeking an A.B.C. permit. The Police Department concurs.

SUP #2007-0124
506 N. Henry Street

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