

Docket Item # 3 A-B
SPECIAL USE PERMIT #2008-0007 A
ENCROACHMENT #2008-0001 B

Planning Commission Meeting
April 1, 2008

ISSUE: Consideration of a request for an amendment to a special use permit and an encroachment to allow outdoor dining in the public right-of-way

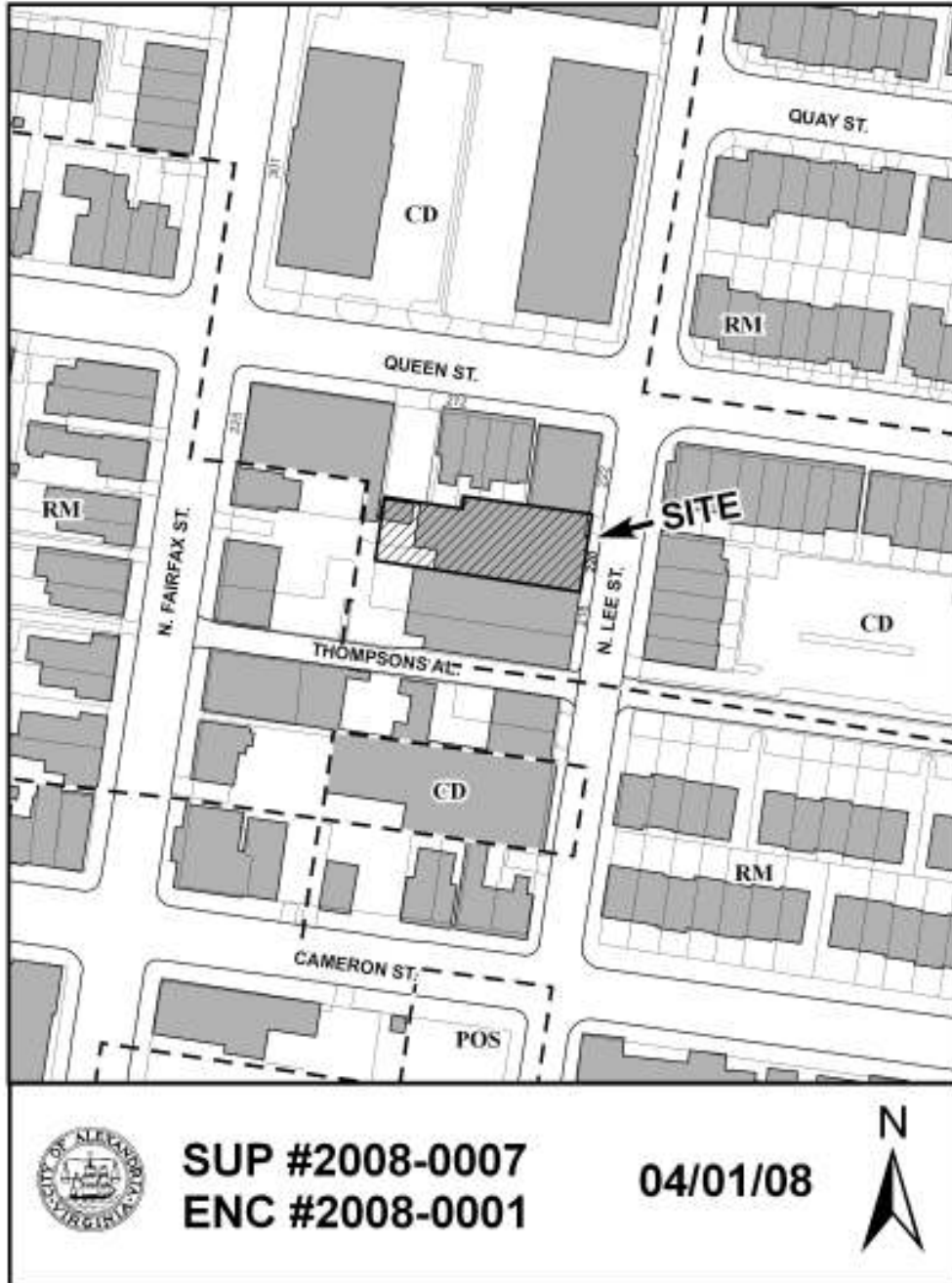
APPLICANT: Atlas Partners

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

LOCATION: 220 N Lee Street

ZONE: CD/Commercial Downtown

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, Atlas Partners, LLC, requests an amendment to Special Use Permit #2005-0107 to allow outdoor dining at 220 North Lee Street.

SITE DESCRIPTION

The subject property is located in the Crilley Warehouse building, three lots of record with 110 feet of frontage on North Lee Street, 155 feet of depth and a combined lot area of 16,456 square feet. The site is developed with a mixed use building with retail, personal service and office uses. Access to the property is from North Lee Street.



The surrounding area is occupied by a mix of residential, office, retail and personal service uses. Immediately to the north is a commercial building housing personal service, retail and a restaurant. To the south is a semi detached house. To the east is the Queen's Row townhouse development. To the west are two semi detached houses.

BACKGROUND

On February 23, 1993, City Council granted Special Use Permit #1867-B to Ecco of Alexandria Inc. for operation of a restaurant containing 174 seats located at 220 North Lee Street. On October 24, 2005, staff administratively approved Special Use Permit 2005-0107 for the change of ownership of the restaurant to Atlas Partners, LLC. The existing restaurant, Overwood, requests amendments to SUP2005-0107.

On February 20, 2008, 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 proposes to reallocate a small portion of the current seating in the restaurant for outdoor dining. The reallocation would move 18 seats from the indoor dining to the front of the Crilley Warehouse public sidewalk. The sidewalk is 9.5 feet in width along the front of the building. The proposed outdoor seating will be located in two areas. One area is an alcove in the northern area of the building and will contain six

seats. This area is located on private property and does not require an encroachment. The other area is against the face of the building and will have 12 seats. No other changes are proposed.

Hours: Existing and Proposed
Monday – Thursday: 11:00 A.M. – 12:00 Midnight
Friday – Saturday: 11:00 A.M. – 1:00 A.M.
Sunday: 10:30 A.M. – 10:30 P.M.

Number of seats: Indoors: 156
Outdoors: 18
Total: 174

Noise: No noise complaints have been received for the business

Trash/Litter: Commercial trash service, employees are required to patrol for litter

PARKING

The restaurant is located in Alexandria’s Central Business District. According to Section 8-300(B) of the Zoning Ordinance, a restaurant in the Central Business District is exempted from the parking requirements.

ZONING/MASTER PLAN DESIGNATION

The subject property is located in the CD/Commercial Downtown zone. Section 4-503(W) of the Zoning Ordinance allows a restaurant in the CD 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 retail use.

II. STAFF ANALYSIS

Staff supports the requested SUP amendment and encroachment to allow outdoor dining. A restaurant has been operating for many years at this location, most recently as the Overwood Restaurant. The outdoor dining will encourage a more pedestrian oriented block and increase the visibility and presence of the restaurant. City Council has recognized the importance of outdoor dining in other locations in the City, including King Street and Washington Street. Staff feels that although this restaurant does not fall within the area that allows outdoor dining to be administratively approved, the addition of outdoor dining to the restaurant can only help increase the vitality of Old Town. Further, since there is no proposal to increase the number of patrons being served, there will be little additional impact on the neighborhood.

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 or to any corporation in which the applicant has a controlling interest only. (P&CD) (SUP #1867)
2. **CONDITION DELETED BY STAFF:** ~~No outside dining facilities shall be located on the premises. (P&CD) (SUP #1867)~~
3. The hours during which the restaurant is open to the public shall be restricted to the following, as requested by the applicant: (P&CD) (SUP #1867-A)
Monday through Thursday- 11:00 A.M. to 12:00 Midnight
Friday to Saturday- 11:00 A.M. to 1:00 A.M.
Sunday- 10:30 A.M. to 10:30 P.M.
4. No food, beverages, or other material shall be stored outside. (P&CD) (SUP #1867)
5. Trash and garbage shall be stored inside or in a dumpster. (P&CD) (SUP #1867)
6. Trash and garbage shall be collected daily when the business is open, except Sundays. (P&CD) (SUP #1867-A) (CC)
7. **CONDITION AMENDED BY STAFF:** Employees shall not be allowed to park in the rear of Crilley Warehouse during evening hours, other than to use the two (2) spaces assigned to ~~Ecco management~~ the applicant. (P&Z)
8. The applicant shall maintain and clean the parking lot area and the adjacent alley to keep it free of litter and debris. (P&CD) (SUP #1867-A)
9. All restaurant trash and litter shall be placed directly in the dumpsters located behind the building. (P&CD) (SUP #1867-A)
10. No delivery trucks shall park in or block the alley, but be encouraged to park in the Lee Street "loading zone". (P&CD) (SUP #1867-A)
11. Employees shall not loiter or engage in loud conversation in the alley and parking areas. (P&CD) (SUP #1867-A)
12. Employees shall exit the restaurant only from the Lee Street entrance. (P&CD) (SUP #1867-A)

13. **CONDITION AMENDED BY STAFF:** Seating shall be provided ~~inside~~ for no more than 174 patrons total. Up to 18 seats may be located outside on private property and within the approved area of encroachment. (P&Z)
14. The applicant shall post the hours of operation at the entrance to the restaurant. (P&CD)(SUP #1867-B)
15. The applicant shall require their employees to use off-street parking. (CC)(SUP #1867-B)
16. Loudspeakers shall be prohibited from the exterior of the building, and no amplified sound shall be audible at the property line outside. (P&CD) (SUP #2005-0107) (T&ES)
17. Meals ordered before the closing hour may be served, but no new patrons be admitted and no alcoholic beverages shall be served after the closing hour, and all patrons shall leave by one hour after the closing hour. (P&CD) (SUP #1867-B)
18. Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers. (T&ES) (SUP #2005-0107)
19. 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. (T&ES) (SUP #2005-0107)
20. **CONDITION DELETED BY STAFF:** ~~Applicant shall provide the City \$1000.00 for one Model SD-42 Bethesda Series litter receptacle for installation on the adjacent public right-of-way (monetary contribution to be submitted to the Department of T&ES, Engineering Division, Room 4130, 301 King Street). Contact T&ES Solid Waste Division (703/751-5130) regarding information on ordering and installation. (T&ES) (SUP #2005-0107)~~
21. 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 a robbery awareness program for all employees. This is to be completed prior to opening for business. (Police) (SUP #2005-0107)
22. 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) (SUP #2005-0107)

23. 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) (SUP #2005-0107)
24. **CONDITION DELETED BY STAFF:** ~~No live entertainment shall be provided at the restaurant. (P&Z) (SUP #2005-0107)~~
25. On site alcohol service is permitted; no off-premise alcohol sales are permitted. (P&Z) (SUP #2005-0107)
26. **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 or contact the City's Solid Waste Division at 703-519-3486 ext.132. (T&ES)
27. **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. (T&ES)
28. **CONDITION ADDED BY STAFF:** In the event the City shall, in the future, have need for the area of the proposed encroachment, the applicant shall remove any structure or projection that encroaches into the public right-of-way, within 60 days, upon notification by the City. (T&ES)
29. **CONDITION ADDED BY STAFF:** Outdoor dining shall end at 10:00 pm, daily. (P&Z)
30. **CONDITION ADDED BY STAFF:** The applicant (and his or her successors, if any) obtain and maintain a policy of general liability insurance in the amount of \$1,000,000, which will indemnify the applicant (and his or her successors, if any) and the City of Alexandria, as an additional named insured, against all claims, demands, suits, etc., and all costs related thereto, including attorney fees, relating to any bodily injury or property damage which may occur as a result of the granting of this encroachment. (P&Z) (City Atty)
31. **CONDITION ADDED BY STAFF:** The area of encroachment shall be limited to the width of the restaurant and four feet from the building face. (P&Z)

32. **CONDITION ADDED BY STAFF:** The applicant shall abide by the regulations of the King Street Outdoor Dining Program regarding the design and maintenance of the outdoor seating area. (P&Z)
33. 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 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 #2005-0107)

STAFF: Richard Josephson, Deputy Director, Department of Planning and Zoning;
Richard W. 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:

- F-1 SUP2005-0107 required \$1000.00 payment for trash can. Payment received 3/13/2007. (T&ES)
- 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 Use of loudspeakers or musicians outside of the restaurant shall be prohibited. (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 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.

Health Department:

- F-1 This facility is currently operating as Overwood Restaurant under an Alexandria Health permit issued to Atlas Partners, LLC.
- C-1 An Alexandria Health Department Permit is required for all regulated facilities.
- C-2 Food must be protected to the point of service.
- C-3 If changes to the facility are to be done, 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 or approval must be obtained prior to use of new area(s).
- C-5 The facility must comply with the Alexandria City Code, Title 11, Chapter 10, Smoking Prohibitions both indoors and at the outside dining areas.
- C-6 Certified Food Managers must be on duty during all hours of operation.

Parks and Recreation:

- F-1 No Comment

Police Department:

- F-1 The Police Department has no objections to the request for outdoor dining.
- F-2 The Police Department has no objections to the encroachment.

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