

Docket Item # 4  
SPECIAL USE PERMIT #2008-0043

Planning Commission Meeting  
November 6, 2008

**ISSUE:** Consideration of a request for an amendment to a condition regarding the provision of parking at a restaurant.

**APPLICANT:** Austin Grill, LLC  
by Ali Azima

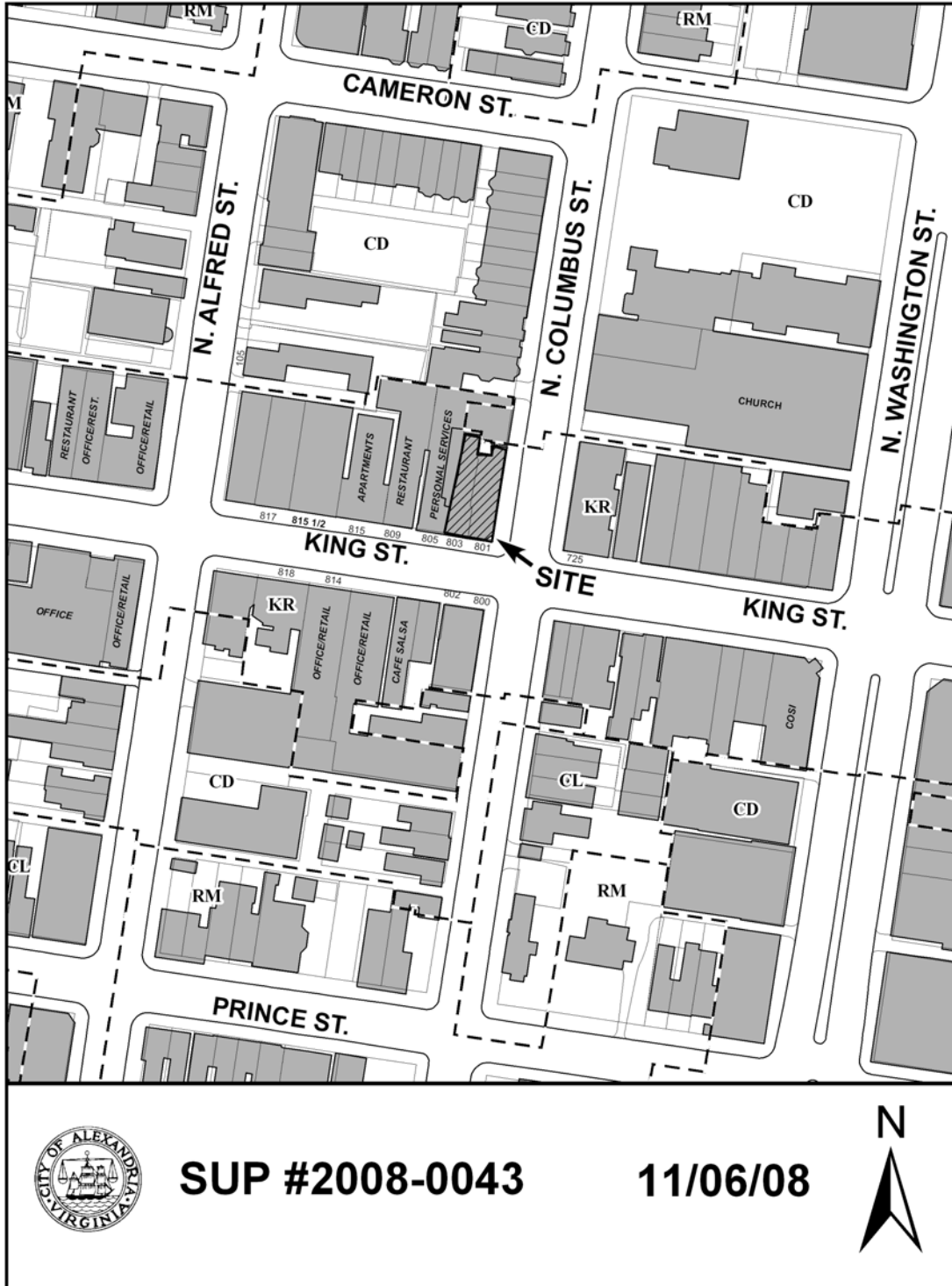
**STAFF:** Eileen Oviatt  
[eileen.oviatt@alexandriava.gov](mailto:eileen.oviatt@alexandriava.gov)

**LOCATION:** 801-803 King Street

**ZONE:** CD/Commercial Downtown

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**STAFF RECOMMENDATION:** Staff recommends **denial** of this application. If Council approves the request, staff recommends approval subject to compliance with all applicable codes and ordinances and the Permit Conditions found in Section III of this report.



**SUP #2008-0043**

**11/06/08**



## I. DISCUSSION

### REQUEST

The applicant, Austin Grill, LLC, requests an amendment to an approved special use permit regarding the provision of parking for the operation of a restaurant located at 801 & 803 King Street.

### SITE DESCRIPTION

The subject property is composed of 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 property occupies the first and second floors of 801 King Street and the second floor of 803 King Street.



The surrounding area is occupied by a mix of office, retail, and residential uses. Immediately to the north is a thrift shop. To the south is a Chico's clothing store and Eamon's Restaurant. To the east and west are a dry cleaning restaurant and a Bertucci'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 January 20, 2007, City Council granted Special Use Permit #2006-0108 to Austin Grill, LLC for an increase in seating, a change in the hours of operation, and the addition of live entertainment at an existing restaurant.

On March 26, 2008, staff visited the subject property to determine if the business was in compliance with the conditions of its special use permit. The applicant was unable to provide staff with evidence of twenty (20) off-street parking spaces to serve restaurant patrons as required by condition #8 of SUP#2006-0108, and was therefore found to be in violation of their approved SUP conditions. At that time, zoning staff informed the applicant that they were in violation and how they could remedy the violation. The applicant subsequently submitted an amendment application on July 3, 2008 to delete the condition requiring reserved off-street parking spaces.

PROPOSAL

The applicant proposes to remove a condition from the existing Special Use Permit which requires that twenty (20) off-street parking spaces be provided to serve restaurant patrons between the hours of 6:00 p.m. and 1:00 a.m.

All other operations of the restaurant as described below will remain the same.

- |                     |   |
|---------------------|---|
| Hours:              | Sunday 9am- Midnight<br>Monday-Thursday 11:30am- Midnight<br>Friday 11:30am- 1am<br>Saturday 9am- 1am |
| Number of seats:    | 175 total seats   |
| Noise:              | The applicant does not anticipate high levels of noise from the restaurant.                           |
| Trash/Litter:       | Trash is collected daily and employees monitor the property and public right-of-way for litter daily. |
| Alcohol:            | On premise alcohol sales  |
| Live entertainment: | Indoor live entertainment   |

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 #8 of SUP#2006-0108, the applicant shall provide evidence of 20 off-street parking spaces to serve restaurant patrons between the hours of 6:00 p.m. and 1:00 a.m., and condition #18 of SUP#2006-0108 requires restaurant employees who drive to park off-street.

In addition, condition #15 of SUP2006-0108 requires that Austin Grill participate in a validated parking program as part of the King Street Retail Strategy similar to “Park Alexandria,” 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.

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 is unable to support the proposed amendment. The condition to provide off-street parking was a staff recommendation of SUP#2006-0108. Other restaurants on King Street have been required to provide off-street parking as a condition of their SUPs. This was done to address the cumulative impact of larger restaurants on a limited supply of on-street parking and to encourage businesses to work with private and/or public garage owners to obtain agreements for the provision of parking spaces during times when these spaces may be more readily available.

Staff notes that not all of the restaurants on King Street that are subject to a special use permit are required to provide off-site parking, although the majority of those with more than 100 seats are at least required to address the demand for parking and how they will mitigate it. Of seven restaurants with over 100 seats on King Street west of Columbus Street that are subject to a special use permit, (including Austin Grill), five have a specific number of required parking spaces and one has a requirement to provide subsidized parking at a nearby garage.

Had the applicant’s request in 2006 for increased seating, additional hours and live entertainment not been conditioned on the provision of off-street parking, it may not have been granted. At the time that SUP#2006-0108 was approved, the applicant provided proof of continuing an existing parking agreement as required by the prior special use permit, SUP #2438.

The applicant has not provided staff with methods by which they would mitigate this parking demand, should their current application be approved. To date, a validated parking program has not been implemented. While a request to reduce parking may be reviewed when such a program has been implemented, staff does not feel that this is an appropriate time to request a parking reduction. In addition, staff finds that the requested amendment, if approved, may provide an incentive for other restaurants to request similar reductions prior to the establishment of a more comprehensive parking program to address the issue of parking needs for restaurants and other uses in the area.

### III. RECOMMENDED CONDITIONS

Staff recommends **denial**. Should the request be granted, staff would recommend maintaining the existing conditions, with the exception of condition #8 and the addition of new condition #24, and subject to compliance with all applicable codes and ordinances.

1. That the permit be granted to the applicant only or to any corporation in which the applicant has a controlling interest. (P&Z)(SUP#2006-0108)
2. That seating be provided inside for no more than 175 patrons. (P&Z) (SUP#2006-0108)
3. Condition deleted by staff. (SUP#2006-0108)
4. That the hours during which the business is open to the public be restricted to 7:00A.M.-12:00AM, Sunday through Thursday, and between 7:00 A.M. and 1:00 A.M. Friday and Saturday. (P&Z) (SUP#2006-0108)
5. That no food, beverages, or other material be stored outside. (P&Z) (SUP#2006-0108)
6. Trash and garbage shall be placed in sealed containers which do not allow odors to escape and shall be stored inside or in 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) (SUP#2006-0108)
7. That trash and garbage be collected daily when the business is open. (P&Z) (SUP#2006-0108)
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) (SUP#2006-0108)
9. 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) (SUP#2006-0108)
10. Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers. (T&ES) (SUP#2006-0108)
11. 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) (SUP#2006-0108)
12. 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 Transportation and Environmental Services. (P&Z) (T&ES) (SUP#2006-0108)

13. 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) (SUP#2006-0108)
14. Condition deleted by staff. (P&Z) (SUP#2006-0108)
15. 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) (SUP#2006-0108)
16. 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#2006-0108)
17. 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) (SUP#2006-0108)
18. 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) (SUP#2006-0108)
19. **CONDITION SATISFIED:** ~~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. On-site alcohol service is permitted. (P&Z) (SUP#2006-0108)
21. 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) (SUP#2006-0108)
22. The applicant shall post the hours of operation at the entrance of the business. (P&Z) (SUP#2006-0108)
23. 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) (SUP#2006-0108)

24. **CONDITION ADDED BY STAFF: Deliveries, loading, and unloading activities shall not occur between the hours of 11:00pm and 7:00am. (T&ES)**

**STAFF:** Richard Josephson, Deputy Director, Department of Planning and Zoning;  
Eileen Oviatt, Urban Planner.

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**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 Staff contacted applicant to ascertain how the parking proposed to be removed was currently being used. Applicant was unable to provide any information regarding this item. At this time, staff does not support removal of the parking requirement. (T&ES)
- F-2 Litter Control fee paid. (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 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)
- R-3 All loudspeakers shall be prohibited from the exterior of the building. (T&ES)
- R-4 **NEW:** Deliveries, loading, and unloading activities shall not occur between the hours of 11:00pm and 7:00am. (T&ES)
- R-5 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. (T&ES)
- R-6 **NEW:** 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-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:

- R-1 The applicant shall maintain compliance with the required handicap accessible parking spaces for the restaurant according with USBC 2003.

Health Department:

- F-1 No Comment

Parks and Recreation:

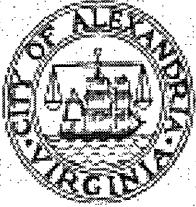
- F-1 No Comment

Police Department:

- F-1 The Police Department has no comments or objections to the removal of the parking requirement as set in SUP 2006-0108.

SUP #2008-0043  
801-803 King Street

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



# APPLICATION SPECIAL USE PERMIT

*Richard*

SPECIAL USE PERMIT # 2008-0043  
~~2006-0108~~

PROPERTY LOCATION: 801-803 KING ST, ALEXANDRIA, VA 22314

TAX MAP REFERENCE: 074.02 01 08 AND PART 07 ZONE: CD/COMMERCIAL DOWNTOWN

**APPLICANT:**

Name: AUSTIN GRILL LLC

Address: 505 HUNTIMAR PARK DRIVE, SUITE 350, HERNDON, VA 20170

PROPOSED USE: AMENDMENT TO SPECIAL USE 2006-0108 TO

REMOVE THE REQUIREMENT OF 20 GUARANTEED PARKING SPACES.

**THE UNDERSIGNED**, hereby applies for a Special Use Permit in accordance with the provisions of Article XI, Section 4-11-500 of the 1992 Zoning Ordinance of the City of Alexandria, Virginia.

**THE UNDERSIGNED**, having obtained permission from the property owner, hereby grants permission to the City of Alexandria staff and Commission Members to visit, inspect, and photograph the building premises, land etc., connected with the application.

**THE UNDERSIGNED**, having obtained permission from the property owner, hereby grants permission to the City of Alexandria to post placard notice on the property for which this application is requested, pursuant to Article IV, Section 4-1404(D)(7) of the 1992 Zoning Ordinance of the City of Alexandria, Virginia.

**THE UNDERSIGNED**, hereby attests that all of the information herein provided and specifically including all surveys, drawings, etc., required to be furnished by the applicant are true, correct and accurate to the best of their knowledge and belief. The applicant is hereby notified that any written materials, drawings or illustrations submitted in support of this application and any specific oral representations made to the Director of Planning and Zoning on this application will be binding on the applicant unless those materials or representations are clearly stated to be non-binding or illustrative of general plans and intentions, subject to substantial revision, pursuant to Article XI, Section 11-207(A)(10), of the 1992 Zoning Ordinance of the City of Alexandria, Virginia.

*RA Azima*  
Print Name of Applicant or Agent  
505 HUNTIMAR PARK DRIVE, SUITE 350  
Mailing/Street Address  
HERNDON, VA 20170  
City and State                      Zip Code

*[Signature]* 6/26/08  
Signature                      Date  
(703) 964-5500      (703) 964-0505  
Telephone #                      Fax #  
\_\_\_\_\_  
Email address

|  |                    |
|--|--------------------|
| <b>ACTION-PLANNING COMMISSION:</b> _____ | <b>DATE:</b> _____ |
| <b>ACTION-CITY COUNCIL:</b> _____        | <b>DATE:</b> _____ |

**PROPERTY OWNER'S AUTHORIZATION**

As the property owner of \_\_\_\_\_, I hereby  
(Property Address)  
grant the applicant authorization to apply for the \_\_\_\_\_ use as  
(use)  
described in this application. N/A amendment to existing SUP

Name: \_\_\_\_\_ Phone: \_\_\_\_\_  
Please Print

Address: \_\_\_\_\_ Email: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

1. Floor Plan and Plot Plan. As a part of this application, the applicant is required to submit a floor plan and plot or site plan with the parking layout of the proposed use. The SUP application checklist lists the requirements of the floor and site plans. The Planning Director may waive requirements for plan submission upon receipt of a written request which adequately justifies a waiver.

Required floor plan and plot/site plan attached.

Requesting a waiver. See attached written request.

2. The applicant is the (check one):

Owner

Contract Purchaser

Lessee or

Other: \_\_\_\_\_ of the subject property.

State the name, address and percent of ownership of any person or entity owning an interest in the applicant or owner, unless the entity is a corporation or partnership, in which case identify each owner of more than ten percent.

AUSTIN GRILL LLC IS A WHOLLY OWNED SUBSIDIARY OF  
THOMPSON HOSPITALITY CORPORATION

If property owner or applicant is being represented by an authorized agent such as an attorney, realtor, or other person for which there is some form of compensation, does this agent or the business in which the agent is employed have a business license to operate in the City of Alexandria, Virginia?

- Yes.** Provide proof of current City business license
- No.** The agent shall obtain a business license prior to filing application, if required by the City Code.

**NARRATIVE DESCRIPTION**

3. The applicant shall describe below the nature of the request **in detail** so that the Planning Commission and City Council can understand the nature of the operation and the use. The description should fully discuss the nature of the activity. (Attach additional sheets if necessary.)

APPLICANT SEEKS TO ELIMINATE REQUIREMENT OF 20  
GUARANTEED PARKING SPACES IN SPECIAL USE PERMIT  
2006-0108.

APPLICANT UNDERSTANDS THAT OTHER RESTAURANTS IN  
SAME ZONE (COMMERCIAL DOWNTOWN) HAVE NOT  
BEEN ASKED TO PROVIDE THE SAME GUARANTEE.

**USE CHARACTERISTICS**

4. The proposed special use permit request is for (check one):

- a new use requiring a special use permit,
- an expansion or change to an existing use without a special use permit,
- an expansion or change to an existing use with a special use permit,
- other: Please describe: CHANGE TO AN EXISTING USE WITH A SUP.

5. Please describe the capacity of the proposed use:

A. How many patrons, clients, pupils and other such users do you expect?  
Specify time period (i.e., day, hour, or shift).

No CHANGE FROM SUP 2006-0108

B. How many employees, staff and other personnel do you expect?  
Specify time period (i.e., day, hour, or shift).

No CHANGE FROM SUP 2006-0108

6. Please describe the proposed hours and days of operation of the proposed use:

|       |        |
|-------|--------|
| Day:  | Hours: |
| _____ | _____  |
| _____ | _____  |
| _____ | _____  |

No CHANGE FROM SUP-2006-0108

7. Please describe any potential noise emanating from the proposed use.

A. Describe the noise levels anticipated from all mechanical equipment and patrons.

No CHANGE FROM SUP 2006-0108

B. How will the noise be controlled?

No CHANGE FROM SUP 2006-0108

8. Describe any potential odors emanating from the proposed use and plans to control them:

No CHANGE From SUP 2006-0108

9. Please provide information regarding trash and litter generated by the use.

A. What type of trash and garbage will be generated by the use? (i.e. office paper, food wrappers)

No CHANGE From SUP 2006-0108

B. How much trash and garbage will be generated by the use? (i.e. # of bags or pounds per day or per week)

No CHANGE From SUP 2006-0108

C. How often will trash be collected?

No CHANGE From SUP 2006-0108

D. How will you prevent littering on the property, streets and nearby properties?

No CHANGE From SUP 2006-0108

10. Will any hazardous materials, as defined by the state or federal government, be handled, stored, or generated on the property?

[ ] Yes. [ ] No.

If yes, provide the name, monthly quantity, and specific disposal method below:

No CHANGE From SUP 2006-0108



11. Will any organic compounds, for example paint, ink, lacquer thinner, or cleaning or degreasing solvent, be handled, stored, or generated on the property?

Yes.       No.

If yes, provide the name, monthly quantity, and specific disposal method below:

No CHANGE From SUP 2006-0108

12. What methods are proposed to ensure the safety of nearby residents, employees and patrons?

No CHANGE From SUP 2006-0108

**ALCOHOL SALES**

13. A. Will the proposed use include the sale of beer, wine, or mixed drinks?

Yes       No

If yes, describe existing (if applicable) and proposed alcohol sales below, including if the ABC license will include on-premises and/or off-premises sales.

No CHANGE From SUP 2006-0108

**PARKING AND ACCESS REQUIREMENTS**

14. A. How many parking spaces of each type are provided for the proposed use:

- 1   Standard spaces
- 1   Compact spaces
- 1   Handicapped accessible spaces.
- 1   Other.

THE PROPERTY IS SITUATED IN DOWNTOWN CENTRAL BUSINESS DISTRICT AND IS EXEMPT FROM REQUIRED PARKING.

Planning and Zoning Staff Only

Required number of spaces for use per Zoning Ordinance Section 8-200A \_\_\_\_\_

Does the application meet the requirement?  
 Yes  No

B. Where is required parking located? (check one)

- on-site
- off-site

If the required parking will be located off-site, where will it be located?

N/A

**PLEASE NOTE:** Pursuant to Section 8-200 (C) of the Zoning Ordinance, commercial and industrial uses may provide off-site parking within 500 feet of the proposed use, provided that the off-site parking is located on land zoned for commercial or industrial uses. All other uses must provide parking on-site, except that off-street parking may be provided within 300 feet of the use with a special use permit.

C. If a reduction in the required parking is requested, pursuant to Section 8-100 (A) (4) or (5) of the Zoning Ordinance, complete the PARKING REDUCTION SUPPLEMENTAL APPLICATION.

Parking reduction requested; see attached supplemental form

15. Please provide information regarding loading and unloading facilities for the use:

A. How many loading spaces are available for the use? NONE

Planning and Zoning Staff Only

Required number of loading spaces for use per Zoning Ordinance Section 8-200 \_\_\_\_\_

Does the application meet the requirement?  
 Yes  No

B. Where are off-street loading facilities located? \_\_\_\_\_  
No CHANGE From SUP 2006-0108

C. During what hours of the day do you expect loading/unloading operations to occur?  
\_\_\_\_\_  
No CHANGE From SUP 2006-0108

D. How frequently are loading/unloading operations expected to occur, per day or per week, as appropriate?  
\_\_\_\_\_  
No CHANGE From SUP 2006-0108

16. Is street access to the subject property adequate or are any street improvements, such as a new turning lane, necessary to minimize impacts on traffic flow?  
\_\_\_\_\_  
No CHANGE From SUP 2006-0108

**SITE CHARACTERISTICS**

17. Will the proposed uses be located in an existing building?  Yes  No  
Do you propose to construct an addition to the building?  Yes  No  
How large will the addition be? 0 square feet.

18. What will the total area occupied by the proposed use be? No CHANGE From SUP 2006-0108  
\_\_\_\_\_ sq. ft. (existing) + \_\_\_\_\_ sq. ft. (addition if any) = \_\_\_\_\_ sq. ft. (total)

19. The proposed use is located in: (check one)  
 a stand alone building  
 a house located in a residential zone  
 a warehouse  
 a shopping center. Please provide name of the center: \_\_\_\_\_  
 an office building. Please provide name of the building: \_\_\_\_\_  
 other. Please describe: EXISTING COMMERCIAL ROW STRUCTURE

End of Application



# APPLICATION

## RESTAURANT

All applicants requesting a Special Use Permit or an Administrative Use Permit for a restaurant shall complete the following section.

1. How many seats are proposed?

Indoors: 175

Outdoors: 18

Total number proposed: 193

2. Will the restaurant offer any of the following?

Alcoholic beverages (**SUP only**)  Yes  No

Beer and wine — on-premises  Yes  No

Beer and wine — off-premises  Yes  No

3. Please describe the type of food that will be served:

No CHANGE FROM SUP 2006-0108

4. The restaurant will offer the following service (check items that apply):

table service  bar  carry-out  delivery

5. If delivery service is proposed, how many vehicles do you anticipate? \_\_\_\_\_

Will delivery drivers use their own vehicles?  Yes  No

Where will delivery vehicles be parked when not in use?

6. Will the restaurant offer any entertainment (i.e. live entertainment, large screen television, video games)?

Yes  No

If yes, please describe:

No CHANGE FROM SUP 2006-0108

**Parking impacts.** Please answer the following:

1. What percent of patron parking can be accommodated off-street? (check one)  
 100%  
 75-99%  
 50-74%  
 1-49%  
 No parking can be accommodated off-street
2. What percentage of employees who drive can be accommodated off the street at least in the evenings and on weekends? (check one)  
 All  
 75-99%  
 50-74%  
 1-49%  
 None
3. What is the estimated peak evening impact upon neighborhoods? (check one)  
 No parking impact predicted  
 Less than 20 additional cars in neighborhood  
 20-40 additional cars  
 More than 40 additional cars

**Litter plan.** The applicant for a restaurant featuring carry-out service for immediate consumption must submit a plan which indicates those steps it will take to eliminate litter generated by sales in that restaurant.

**Alcohol Consumption and Late Night Hours.** Please fill in the following information.

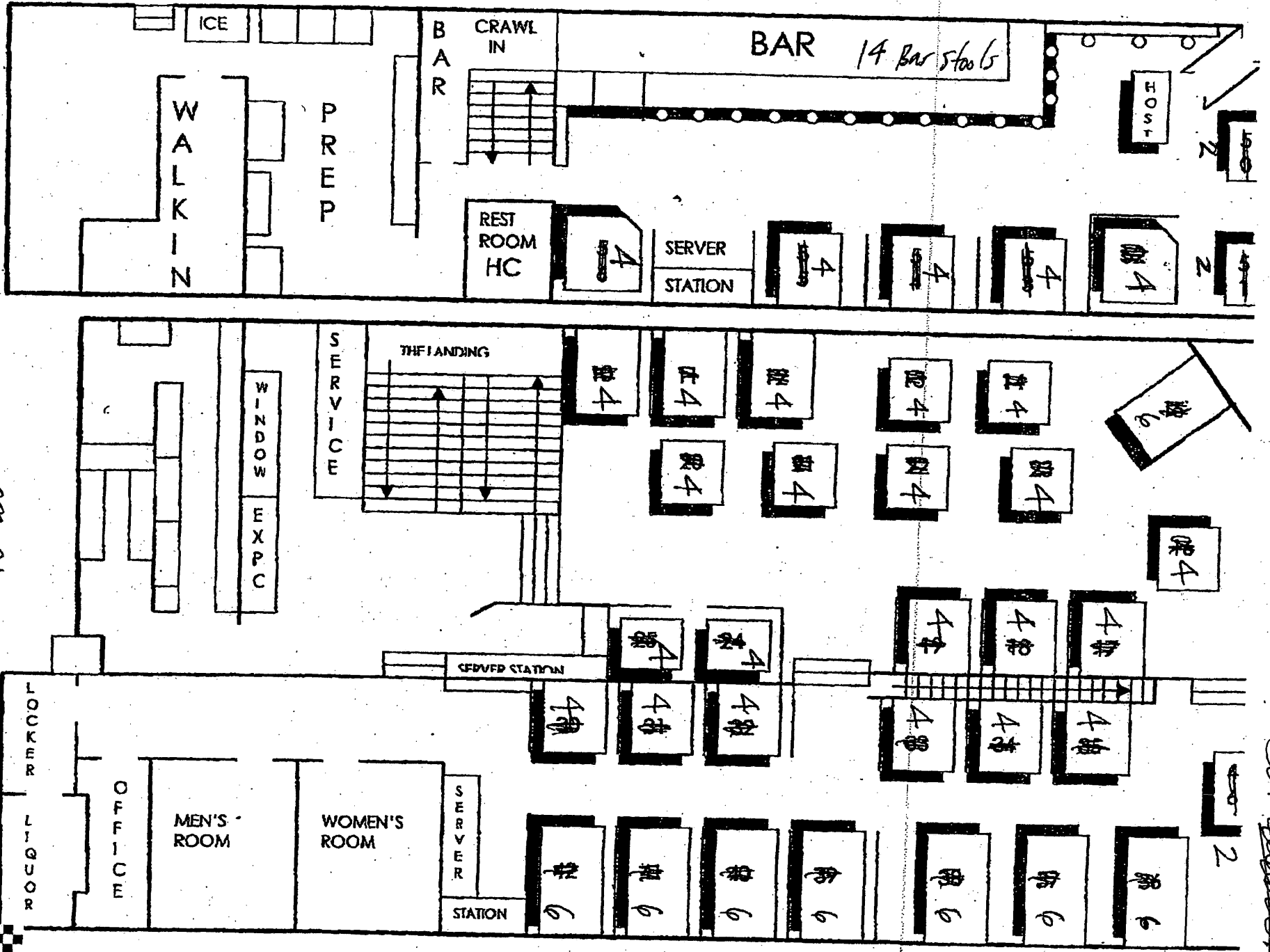
1. Maximum number of patrons shall be determined by adding the following:  
+ 158 Maximum number of patron dining seats  
+ 14 Maximum number of patron bar seats  
+ - Maximum number of standing patrons  
= 172 Maximum number of patrons
2. 30 Maximum number of employees by hour at any one time
3. Hours of operation. Closing time means when the restaurant is empty of patrons.(check one)  
 Closing by 8:00 PM  
 Closing after 8:00 PM but by 10:00 PM  
 Closing after 10:00 PM but by Midnight  
 Closing after Midnight
4. Alcohol Consumption (check one)  
 High ratio of alcohol to food  
 Balance between alcohol and food  
 Low ratio of alcohol to food

OCT. 23. 2006 10:51AM

AUSTIN GRILL ALEXANDRIA

NO. 749

P. 1



2008-0243  
SUP ~~XXXXXXXXXX~~

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

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**CITY COUNCIL ACTION, JANUARY 20, 2007:** City Council approved the Planning Commission recommendation.

**PLANNING COMMISSION ACTION, JANUARY 4, 2007:** By unanimous consent, the Planning Commission recommended approval of the request, subject to compliance with all applicable codes, ordinances and staff recommendations.

**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 #2006-0108

01/04/07



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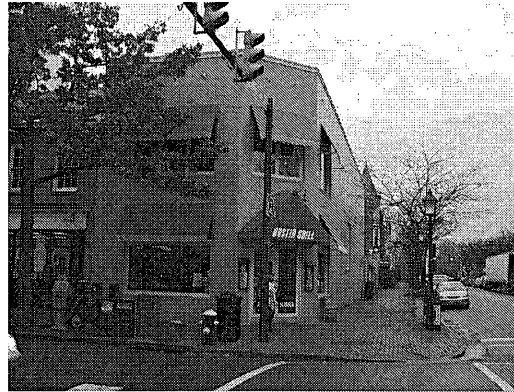
## I. DISCUSSION

### 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.

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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  
*(Existing SUP allows Fri. - Sat. 11:30am- 1am)*
- Number of seats: 161 dining seats  
+ 14 bar seats  
175 total seats  
*(Existing SUP allows 160 indoor seats)*
- 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)(SUP#2438)
2. That seating be provided inside for no more than 175 patrons. (P&Z)(SUP#2438)
3. Condition deleted by staff.
4. That the hours during which the business is open to the public be restricted to 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)(SUP#2438)
6. Trash and garbage shall be placed in sealed containers which do not allow odors to escape and shall be stored inside or in 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)(SUP#2438)

- ~~8.~~ 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) (SUP#2438)
9. 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. Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers. (T&ES)
11. 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. 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. 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. (P&Z)
15. 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. 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. 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. 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. 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. On-site alcohol service is permitted. (P&Z)
21. 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. The applicant shall post the hours of operation at the entrance of the business. (P&Z)
23. 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.

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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-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.
- 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.