

City of Alexandria, Virginia
Department of Planning & Zoning

SPECIAL USE PERMIT CERTIFICATE

Article XI, Division A, Section 11-510 of the 1992 Zoning Ordinance of the City of Alexandria, Virginia requires that you display this Special Use Permit in a conspicuous and publicly accessible place. A copy of the list of conditions associated with the special use permit shall be kept on the premises and made available for examination by the public upon request.

Special Use Permit #2024-00045

Approved by Planning and Zoning: August 16, 2024

Permission is hereby granted to: Richard Kelly/HTC Property Management LLC

to use the premises located at: 1404 King Street

for the following purpose: see attached report

It is the responsibility of the Special Use Permit holder to adhere to the conditions approved by City Council. The Department of Planning and Zoning will periodically inspect the property to identify compliance with the approved conditions. If any condition is in violation, the permit holder will be cited and issued a ticket. The first violation carries a monetary fine. Continued violations will cause staff to docket the special use permit for review by City Council for possible revocation.

August 16, 2024

Date

Karl Moritz (by T. LaColla)

Karl Moritz, Director
Department of Planning and Zoning

DATE: August 16, 2024

TO: Tony LaColla, Division Chief, Land Use Services
Department of Planning and Zoning

FROM: Mavis Stanfield, Planner
Department of Planning and Zoning

SUBJECT: Special Use Permit #2024-00045
Administrative Review for a Minor Amendment
Site Use: Restaurant and Outdoor Dining
Applicant: Richard Kelly/HTC Property Management LLC
Location: 1404 King Street
Zone: KR/King Street urban retail

Request

Special Use Permit #2024-00045 is a minor amendment to add 30 seats of outdoor dining on private property for an existing restaurant. The seats would be located to the rear of the property on a part of the second floor, which is of the located on the existing restaurant's roof. The new outdoor seating area would be part of the remodeling that is planned primarily for the second floor.

Background

A restaurant has operated at 1404 King Street since before the requirement of a special use permit for restaurants was adopted. Since 1985, City Council has approved five special use permits for changes to the grandfathered restaurant. The most recent was on May 18, 2002, when City Council granted Special Use Permit #2002-00020 to extend the hours of operation from 11 a.m. to 11 p.m. to 11 a.m. to 2 a.m., Monday through Saturday, and from 11 a.m. to 10 p.m. to 11 a.m. to 12 a.m. on Sunday. City Council also deleted Condition #17, which required the applicant to provide a copy of their lease agreement for the 17 parking spaces for staff on an annual basis, since the lease for the parking spaces was executed in perpetuity.

Parking

The subject property is located within the Central Business District (CBD). Restaurants located within the CBD are exempt from parking requirements pursuant to Section 8-300(B) of the Zoning Ordinance.

Community Outreach

Public notice was provided through eNews, via the City's website, and by posting placards on the site. In addition, the Upper King Street Neighborhood Association was sent a written notification of the current application. Staff has not received any comments from residents or adjacent businesses.

Staff Action

Staff supports the request to add outdoor seating to the existing restaurant. Given that the seats are located at the rear of the restaurant, not visible from King Street, and separated from residential

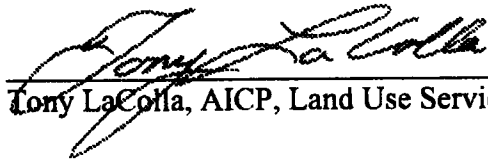
uses, staff does not anticipate adverse impacts. Although the applicant requested 30 outdoor seats on private property, staff amended Condition #3 to allow for up to 49 seats as this is the limit that can be approved through administrative SUP. The outdoor hours of operation are included in Condition #4 as 11 p.m. daily, consistent with Zoning Ordinance requirements for outdoor dining approved through administrative SUP.

Special Use Permit conditions have been carried forward from Special Use Permit #2002-00020. However, several conditions have been deleted, amended or added in order to reflect the current standard Special Use Permit conditions for a restaurant. This includes the deletion of Conditions #8 and #18, amendments to existing Conditions #2, #3, #4, #5, #6, #10 #11, #15, #18, #20, #21 and #22 as well as new Conditions #23 through #31.

Staff hereby approves the Special Use Permit request.

ADMINISTRATIVE ACTION - DEPARTMENT OF PLANNING AND ZONING:

Date: August 16, 2024
Action: Approved



Tony LaColla, AICP, Land Use Services Division Chief

- Attachments: 1) Special Use Permit Conditions
2) City Department Comments
3) Statement of Consent

CONDITIONS OF SPECIAL USE PERMIT #2024-00045

The owner is responsible for ensuring that the following conditions are adhered to at all times. Violation of any of the conditions may result in fines and/or referral to public hearing by the Planning Commission and City Council.

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&Z) (SUP 95-0025) (SUP 1830)
2. **CONDITION AMENDED BY STAFF:** ~~Seating shall be provided for no more than 118 patrons~~ The maximum number of indoor seats at the restaurant shall comply with the state building code. (P&Z) ~~(SUP 95-0025)~~
3. **CONDITION AMENDED BY STAFF:** ~~No~~ Outside dining facilities on private property shall be located on the premises not exceed 49 seats. (P&Z) ~~(SUP 95-0025) (SUP 1830)~~
4. **CONDITION AMENDED BY STAFF:** The hours of operation for the outdoor dining shall be limited to between 11:00 a.m. and 2:00 a.m., ~~Monday through Saturday, and 11:00 a.m. and 12:00 a.m., Sunday 11:00 p.m., daily.~~ (P&Z) (SUP 2002-0020)
5. **CONDITION AMENDED BY STAFF:** No food, beverages, or other material shall be stored outside with the exception of materials specified in other conditions. (P&Z) ~~(SUP 95-0025) (SUP 1830)~~
6. **CONDITION AMENDED BY STAFF:** 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 leaking or invasion by animals. No trash and debris shall be allowed to accumulate on site outside of those containers. (P&Z) ~~(SUP 95-0025) (SUP 1830)~~
7. Condition deleted. (SUP 96-0137)
8. **CONDITION DELETED BY STAFF:** ~~The applicant shall (a) provide a minimum of 17 off-street parking spaces in the lot behind the restaurant to accommodate restaurant patrons after the normal working hours in the evenings; (b) shall advertise such parking by posting notice at its restaurant and including such notice in any advertising; and (c) shall urge patrons who drive to use the space.~~ (P&Z) ~~(SUP 98-0128)~~
9. The applicant shall post the hours of operation at the entrance to the restaurant. (P&Z) (SUP 95-0025)

10. **CONDITION AMENDED 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 monitored and 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 95-0025)
11. **CONDITION AMENDED BY STAFF:** Kitchen equipment, including floor mats, shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers. (P&Z) (SUP 95-0025) (T&ES)
12. No amplified sound shall be audible at the property line. (P&Z) (SUP 96-0137)
13. The applicant shall require its employees who drive to use off-street parking. (P&Z) (SUP 95-0025)
14. Condition deleted. (SUP 98-0128)
15. **CONDITION AMENDED BY STAFF:** 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~~ public transportation to travel to and from work. The business shall contact Go Alex at goalex@alexandriava.gov for information on establishing an employee transportation benefits program. (T&ES) (P&Z) (SUP 98-0128)(SUP 95-0025)
16. The applicant shall post signs directing patrons to the availability of parking behind the restaurant. (P&Z) (SUP 95-0025)
17. Condition deleted. (SUP 2002-0020)
18. **CONDITION DELETED BY STAFF:** ~~The applicant shall contact the Crime Prevention Unit of the Alexandria Police Department for a security survey for the business and a robbery awareness program for all employees. (Police) (SUP 96-0137)~~
19. Condition deleted. (SUP 98-0128)
20. **CONDITION AMENDED BY STAFF:** Meals ordered indoors before the closing hour may be served, but no new patrons may be admitted, ~~and no alcoholic beverages may be served after the closing hour,~~ and all patrons must leave by one hour after the closing hour. (P&Z) (SUP 2002-0020)

21. **CONDITION AMENDED BY STAFF:** ~~Alcoholic beverages may be sold for on-premise consumption. Beer and wine is limited to infrequent special events as described by the applicant. On and off premises alcohol is permitted in compliance with Virginia ABC requirements. (P&Z) (SUP-2002-0020)~~
22. **CONDITION AMENDED BY STAFF:** The Director of Planning and Zoning shall review the special use permit one year after ~~approval~~ it has been operational and then again every three years for compliance with all conditions and may 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) or 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 or (c) the director has determined that there are problems with the operation of the use and that new or revised conditions are needed to offset land use impacts not addressed in the city code.~~ (P&Z) (SUP#2002-0020)
23. **CONDITION ADDED BY STAFF:** Outdoor seating areas shall not include signage on outdoor dining furniture or enclosures, including on umbrellas. (P&Z)
24. **CONDITION ADDED BY STAFF:** The outdoor dining area shall be cleared of customers by 11 p.m. and washed at the close of each business day when it is in use. (P&Z)
25. **CONDITION ADDED BY STAFF:** The applicant shall provide information about alternative forms of transportation to access the site, including but not limited to printed and electronic business promotional material, posting on the business website, and other similar methods. Contact Go Alex at goalex@alexandriava.gov for more information about available resources. (P&Z)
26. **CONDITION ADDED BY STAFF:** Indoor limited, live entertainment may be offered and must comply with the City's noise ordinance. 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)
27. **CONDITION ADDED BY STAFF:** Delivery vehicles are permitted and must be parked off street when not in use. (P&Z)
28. **CONDITION ADDED BY STAFF:** Supply deliveries, loading, and unloading activities shall not occur between the hours of 11:00pm and 7:00am. (T&ES)
29. **CONDITION ADDED BY STAFF:** 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)

30. **CONDITION ADDED BY STAFF:** Lids must always remain closed on waste grease drums/containers and spills cleaned up by mopping or dry methods that do not produce a discharge to the gutter, storm or combined inlets. (T&ES)
31. **CONDITION ADDED BY STAFF:** Chemicals, detergents or cleaners stored outside the building shall be kept in an enclosure with a roof. (T&ES)

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.

CITY DEPARTMENT COMMENTS

Legend: C - code requirement R - recommendation S - suggestion F - finding

Transportation & Environmental Services:

TES/OEQ conditions include carrying forward the following conditions from SUP2002-0020 with this approval.

- R-1 Supply deliveries, loading, and unloading activities shall not occur between the hours of 11:00pm and 7:00am. (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 Used cooking grease drums/containers should be stored outside of the RPA if practicable. Lids must always remain closed on waste grease drums/containers and spills cleaned up by mopping or dry methods that do not produce a discharge to the gutter, storm or combined inlets. (T&ES)
- R-4 Chemicals, detergents or cleaners stored outside the building shall be kept in an enclosure with a roof. (T&ES)
- R-5 All patrons shall be cleared of outdoor dining by 11 p.m. (T&ES)
- C-1 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). In order to comply with this code requirement, the applicant shall provide a completed Recycling Implementation Plan (RIP) Form within 60 days of SUP approval. Contact the City's Recycling Program Coordinator at (703) 746-4410, or via e-mail at commercialrecycling@alexandriava.gov, for information about completing this form. (T&ES)
- C-2 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. (T&ES)
- C-3 Section 5-1-42- Collection by Private collectors. (c) Time of collection. Solid waste shall be collected from all premises not serviced by the city at least once each week. No collections may be made between the hours of 11:00 p.m. and 7:00 a.m. (6:00 a.m. from May 1, through September 30) if the collection area is less than 500 feet from a residential area. (T&ES)

Code Enforcement:

C-1 Building permit BLDC2024-00051 has been applied for and is under review.

Recreation, Parks, and Cultural Activities:

No comments received.

Police Department:

No comments received.

Health Department:

- C-1 An Alexandria Health Department Permit is required for all regulated facilities. A permit shall be obtained prior to operation, and is not transferable between one individual, corporation or location to another. Permit application and fee are required.
- C-2 Construction plans shall be submitted to the Health Department located at 4850 Mark Center Dr., 4th Floor and through the Multi-Agency Permit Center. Plans shall be submitted and approved by the Health Department prior to construction. There is a \$200.00 plan review fee payable to the City of Alexandria- fee must be paid separate from any other departmental fees.
- C-3 Construction plans shall comply with Alexandria City Code, Title 11, Chapter 2, The Food Safety Code of the City of Alexandria. Plans shall include a menu of food items to be offered for service at the facility and specification sheets for all equipment used in the facility, including the hot water heater.
- C-4 A Food Protection Manager shall be on-duty during all operating hours.
- C-5 The facility shall comply with the Virginia Indoor Clean Air Act and the Code of Alexandria, Title 11, Chapter 10, Smoking Prohibitions.
- C-6 In many cases, original wooden floors, ceilings and wall structures in historical structures may not be suitable for food service facilities. Wood materials shall be finished in a manner that is smooth, durable, easily-cleanable, and non-absorbent.
- C-7 Facilities engaging in the following processes may be required to submit a HACCP plan and/or obtain a variance: Smoking as a form of food preservation; curing/drying food; using food additives to render food not potentially-hazardous; vacuum packaging, cook-chill, or sous-vide; operating a molluscan shellfish life-support system; sprouting seeds or beans; and fermenting foods.

C-8 Starting on 1/1/2023, The Virginia Department of Agriculture and Consumer Services (VDACS) is the point of contact for the following type of establishments: grocery stores, convenience stores, ice cream stores, wine shops, or bakeries. The divisions of Food Safety can offer further guidance. Please use the following contact information:

VDAC's Food Safety Program
804.786.3520
804.371.7792
foodsafety@vdacs.virginia.gov
CONFIRMED

Fire Department:

F-1 A new fire prevention permit may be required.

The application can be accessed online at:
www.alexandriava.gov/fire-department/the-fire-marshals-office.

STATEMENT OF CONSENT

The undersigned hereby agrees and consents to the attached conditions of this Special Use Permit #2024-00045. The undersigned also hereby agrees to obtain all applicable licenses and permits required for the restaurant and outdoor dining at 1404 King Street.

Richard J Kelly

Applicant - Signature

8/22/24

Date

Richard J Kelly

Applicant - Printed

8/22/24

Date