

CONSENT AGENDA ITEM

If no one asks to speak about this case prior to the hearing, it will be approved without discussion as part of the Consent Agenda.

Docket Item #3
SPECIAL USE ERMIT #2008-0045

Planning Commission Meeting
September 4, 2008

ISSUE: Consideration of an amendment to a special use permit to allow off-premise sale of alcohol at an existing restaurant.

APPLICANT: Kyong Yi

LOCATION: 119 South Royal 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.



SUP #2008-0045

09/04/08



I. DISCUSSION

REQUEST

The applicant, Kyong Yi, requests an amendment to Special Use Permit #2007-0025 for the off-premises sale of alcohol at an existing restaurant located at 119 South Royal Street.

SITE DESCRIPTION

The subject property is one lot of record with 21 feet of frontage on South Royal Street, 93 feet of depth and a total lot area of 2,019 square feet. The site is developed with a commercial townhouse. Access to the property is from South Royal Street.

The surrounding area is occupied by a mix of retail, residential, restaurant, office, and hotel uses. Immediately to the north is Shoe Hive (retail). To the east is a vacant retail space and to the west is Restaurant Eve. To the south is Goldsmith-Silversmith (retail).



BACKGROUND

On October 12, 1991, City Council approved SUP#2532 to Vivian M. Bacon to operate a full service restaurant at 119 South Royal Street with a total of 44 seats. On October 17, 1992, City Council approved SUP#2532-A to Vivian M. Bacon for an extension to the previous special use permit approval. On October 16, 1993, City Council approved SUP#2532-B to Vivian M. Bacon for an increase in hours of operation for Tea Cozy Restaurant and to offer carry-out service. The Tea Cozy Restaurant ceased operations in February 2007. On May 12, 2007, City Council approved SUP#2007-0025, an amendment to change the ownership to Kyong Yi, the current owner, and increase the hours and number of seats for the restaurant.

On July 18, 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 offer wine and beer for off premises consumption at the existing restaurant. The applicant will retain the current seating arrangement and display beer and wine at the bar. There are no other changes proposed.

Hours: 9:00 am – 12:00 am, daily (no change)

Number of seats: 55 (no change)

Noise: There have been no noise issues (no change)

- Trash/Litter: Trash is collected daily when the business is open. Trash is stored inside or in a dumpster and staff checks for litter around the store, street frontage, alley, and nearby properties daily. (no change)
- Alcohol: On-premise alcohol sales are currently provided, off-premises sale of beer and wine is proposed.

PARKING

According to Section 8-300 (B) of the Zoning Ordinance, parking provisions do not apply to restaurants located within the Central Business District.

ZONING/MASTER PLAN DESIGNATION

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

II. STAFF ANALYSIS

Staff supports the proposed amendment to the special use permit for the restaurant. The applicant indicates that the ability to provide patrons with beer and wine for off premises consumption will be an enhancement to the existing restaurant. Since the applicant is not altering the seating arrangement and is proposing a modest display area for off-premises sales, this will be an accessory feature of the current restaurant and not a primary draw. Staff does not feel that this will have negative impacts on the neighborhood and will help the existing small business better serve their customers.

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 business or entity in which the applicant has a controlling interest. (P&Z) (SUP#2532)
2. Seating shall be provided inside for no more than 55 patrons. (P&Z)
3. No food, beverages, or other material shall be stored outside. (P&Z) (SUP#2532)

4. Trash and garbage shall be place in sealed containers which do not allow odors to escape and shall be stored inside or in closed containers which do not allow invasion by animals. No trash and debris shall be allowed to accumulate on site outside of those containers. (P&Z) (SUP2007-0025)
5. Trash and garbage shall be collected every day that service is available. (P&Z)(SUP#2532)
6. The hours of operation shall be limited to 7am- Midnight Daily. (P&Z) (SUP2007-0025)
7. **CONDITION DELETED BY STAFF:** ~~On premise alcohol sales only are permitted.~~ (P&Z)
8. 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) (SUP2007-0025)
9. **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, 301King Street within 60 days of City Council approval.~~ (T&ES)
10. 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)(T&ES)(SUP#253B)
11. The applicant shall post the hours of operation at the entrance of the restaurant. (P&Z)(SUP#2532-B)
12. Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys, or storm sewers. (T&ES)(SUP#2532-B)
13. 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) (SUP2007-0025)
14. 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) (SUP2007-0025)
15. All loudspeakers shall be prohibited from the exterior of the building and no amplified sounds shall be audible at the property line. (T&ES) (SUP2007-0025)

16. The applicant shall provide storage space for solid waste and recyclable materials lined 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) (SUP2007-0025)
17. 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) (SUP2007-0025)
18. The applicant shall comply with any requirements adopted as a part of a smoke-free restaurant ordinance. (P&Z) (SUP2007-0025)
19. Provide a menu or list of foods to be handled at this facility to the Health Department prior to opening. (Health) (SUP2007-0025)
20. The applicant shall contact the Crime Prevention Unit of the Alexandria Police Department at 703-838-4520 for a security survey and robbery awareness program for employees. (Police) (SUP2007-0025)
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) (SUP2007-0025)
22. **CONDITION ADDED BY STAFF:** Deliveries, loading, and unloading activities shall not occur between the hours of 11:00pm and 7:00am. (T&ES)
23. **CONDITION ADDED BY STAFF:** Beer or wine coolers may be sold only in 4-packs, 6-packs or bottles of more than 40 fluid ounces. Wine may be sold only in bottles of at least 750 ml or 25.4 ounces. Fortified wine (wine with an alcohol content of 14% or more by volume) may not be sold. (Police)
24. 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)

STAFF: 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:

- F-1 **The applicant has purchased the receptacle. This condition has been satisfied.** 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 within 60-days of approval). Contact T&ES Solid Waste Division (703/751-5130) regarding information on ordering and installation. (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) (SUP2007-0025)
- 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) (SUP2007-0025)
- 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) (SUP2007-0025)
- R-4 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 or contact the City's Solid Waste Division at 703-519-3486 ext.132. (T&ES) (SUP2007-0025)
- 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. A 100% parking or transit subsidy shall be provided for employees. (T&ES) (SUP2007-0025)
- R-7 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) (SUP2007-0025)

- 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. (SUP2007-0025)
- 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). (SUP2007-0025)

Code Enforcement:

F-1 No Comment

Health Department:

F-1 No Comment

Parks and 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.
- F-1 The applicant is seeking an "ABC On" and "ABC Off" license. After reviewing the crime database for 119 S. Royal St., the Police Department has no objections to either license subject to the following conditions for alcohol sold off premise:
1. Beer or wine coolers may be sold only in 4-packs, 6-packs or bottles of more than 40 fluid ounces. Wine may be sold only in bottles of at least 750 ml or 25.4 ounces. Fortified wine (wine with an alcohol content of 14% or more by volume) may not be sold.
 2. That the SUP is reviewed after one year.

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