

DOCKET ITEM #7
Special Use Permit #2016-0050
2 South Whiting Street – Alley Cat Restaurant

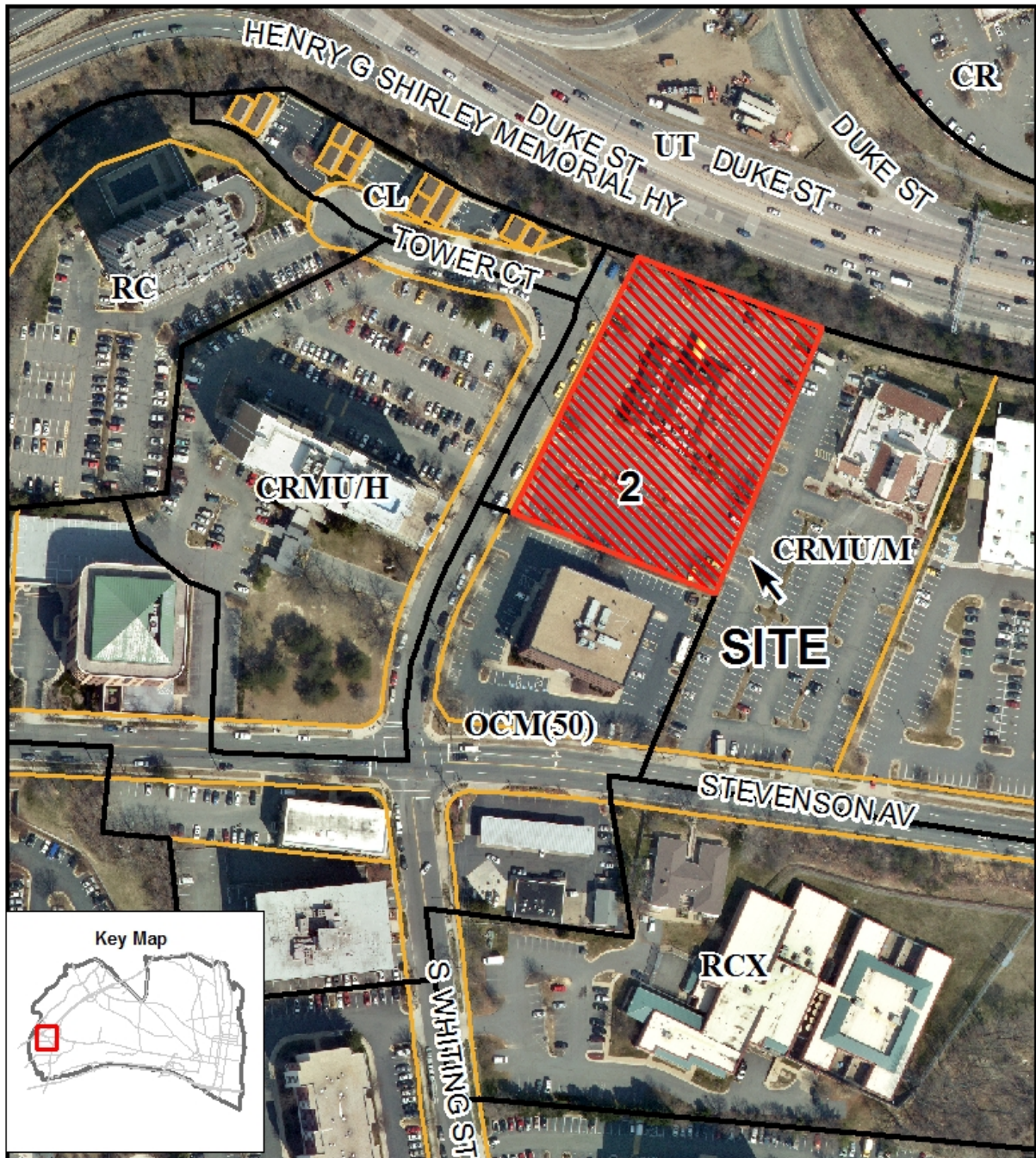
CONSENT AGENDA ITEM

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.

Application	General Data	
Request: Public hearing and consideration of an amendment to SUP#1058 for an expansion of operating hours.	Planning Commission Hearing:	September 8, 2016
	City Council Hearing:	September 17, 2016
Address: 2 South Whiting Street	Zone:	CRMU/M: Commercial Residential Mixed Use (Medium) Zone
Applicant: Abdelkader Elgarch	Small Area Plan:	Landmark/Van Dorn Small Area Plan

Staff Recommendation: APPROVAL subject to compliance with all applicable codes and ordinances and the recommended permit conditions found in Section III of this report.

Staff Reviewers: Sara Brandt-Vorel, Sara.brandtVorel@alexandriava.gov



Special Use Permit #2016-0050
2 South Whiting Street



I. DISCUSSION

REQUEST

The applicant, Abdelkader Elgarch, requests an amendment to previous Special Use Permit #1058 to expand operating hours to allow the restaurant to remain continuously open between 11 a.m. and 2 a.m., daily.

SITE DESCRIPTION

The subject site is a trapezoidal parcel located at 2 South Whiting Street with approximately 320 feet of frontage along S. Whiting Street and approximately 230 feet of frontage along the southern side of Duke Street, and a total parcel area of approximately 73,800 square feet.

The site is developed with a two story wooden structure of approximately 8,100 square feet and surrounded by a surface parking lot of 141 parking spaces, which is accessed from S. Whiting



Figure 1: Exterior of Alley Cat restaurant, at 2 South Whiting Street, as seen from surface parking lot.

Street. Commercial access to the building occurs through the main entrance of the building which faces Duke Street however, there is no direct access from Duke Street to the subject site.

The subject site is used entirely as a restaurant and surrounded by residential and commercial uses, all of which are situated in the middle of individual surface parking lots. Directly east of the subject site is Dunya Banquet Hall. A four-story office building is located directly to the south. Landmark Towers is located across S. Whiting Street to the west. Duke Street separates the subject site from uses to the north.

BACKGROUND

A restaurant with live entertainment has operated at this location since 1977. The subject site was first approved under Site Plan SIT #76-011 by Planning Commission on May 6, 1976. City Council approved Special Use Permit, SUP #1058 on May 25, 1976 for a 376 seat restaurant with 94 parking spaces and proposed lunch hours of 11 a.m. – 2:30 p.m. and dinner hours of 5:30 p.m. to 12 a.m., midnight, daily with limited live entertainment. On October 27, 1976 a revised Site Plan, SIT #78-006 was approved to reconfigure the existing parking lot and add supplemental parking, increasing the number of parking spaces to 141 spaces. The first

restaurant on site became known as Rafters, due to the internal support rafters visible inside the restaurant. That restaurant offered lunch and dinner, on-premises alcohol service, and live entertainment for patrons. City Council denied SUP #1587 on September 17, 1983 for an arcade and an expansion of hours for the next restaurant operator, Bennigan's. By 2004, the Bennigan's restaurant had become Fanatico's restaurant, which offered dining, along with live entertainment and dancing. The current restaurant, known as Alley Cat restaurant was in operation by 2009 and offers dining, carry-out and limited live entertainment including performances by local bands, karaoke, trivia and dancing instruction for line dancing approximately 10 times a month. All live entertainment, however, is secondary to the restaurant's operations and ends by midnight. No cover charge is collected for live entertainment at the restaurant. In addition to live entertainment the applicant maintains several large televisions throughout the restaurant which are used to show sports events.

The restaurant received complaints in August 2013 and March 2014 for violations of the City's sign ordinance. In both instances the restaurant received tickets and the illegal signage was removed. More recently, in January 2016 the city received a complaint about smoking on the second floor. During an inspection city staff determined the restaurant was in violation of its hours of operation established in SUP #1058 by remaining open between 2:30 and 5 p.m. and after midnight. The applicant was informed they would need an amendment to Special Use Permit #1058 to pursue extended hours of operation. However, by April 2016 the applicant had failed to apply for an amendment and staff issued a ticket. The applicant subsequently submitted an SUP request in June 2016 to amend the restaurant's hours of operation.

PROPOSAL

The applicant, Abdelkader Elgarch, requests Special Use Permit approval to expand operating hours by four and one half hours each day to allow the restaurant to remain continuously open between 11 a.m. and 2 a.m., daily. All other restaurant operations would remain the same, and the applicant would continue operating a restaurant of 235 indoor seats with dine-in and carry-out options and limited live entertainment. The restaurant contains an upstairs room that is rented out for private events. Typical staffing may include up to eight individuals per shift. The applicant does not offer any delivery services.

Elements of the restaurant operations are:

Hours of Operation: **Proposed Hours of Operation**
11 a.m. – 2 a.m., daily.

Current Hours of Operation
Lunch: 11 a.m. – 2:30 p.m., daily.
Dinner: 5 p.m. – 12, Midnight, daily.

Number of Seats: 27 bar seats
152 downstairs seats
56 upstairs seats
235 total indoor seats.

<u>Type of Service:</u>	Dine-in and carry-out only.
<u>Delivery:</u>	None.
<u>Live Entertainment:</u>	Live entertainment, such as small bands, karaoke, and a live D.J., are proposed to occur once a week. Live trivia is scheduled for once a week. Line dancing classes take place in the evenings once a month.
<u>Alcohol:</u>	On-premises sales of alcohol.
<u>Employees:</u>	Generally, up to eight employees at any one time.
<u>Noise:</u>	Some noise is expected from typical restaurant operations. Potential noise from live entertainment will be moderated and is not expected to be a concern as the restaurant is surrounded by surface parking lots.
<u>Odors:</u>	Minimal odors associated with cooking will be addressed through proper ventilation and hood systems.
<u>Trash/Litter:</u>	Five trash bags are expected each day. Dumpsters associated with the restaurant are emptied three times each week.

PARKING

Section 8-200(A)(8) requires restaurants to provide one off-street parking space for every four seats, therefore with 235 indoor seats the applicant would be required to provide 59 off-street parking spaces. As the restaurant is surrounded by a private surface parking lot with 141 spaces the applicant exceeds their parking requirement.

ZONING/MASTER PLAN DESIGNATION

The subject site is zoned CRMU(M)/Commercial Residential Mixed Use (Medium) which allows for a restaurant use through an administrative Special Use Permit. However, the applicant's request to operate after midnight, and to add over two hours of operation per day exceeds what is allowed through an administrative Minor Amendment under Section 11-513(L)(3) and requires the applicant to seek full-hearing Special Use Permit approval.

The Landmark/Van Dorn Small Area Plan designated the subject site CRMU-M/Commercial Residential Mixed Use (Medium) which allows the continued operation of a restaurant use. The more recently adopted amendment to the plan, the Van Dorn/Landmark Corridor Plan, envisions the subject site as a regional town center with mixed-use development including office, retail, and residential uses.

II. STAFF ANALYSIS

Staff finds the applicant's request to extend the restaurant's hours of operation as reasonable. As many restaurants are typically open between 2:30 p.m. and 5 p.m. staff finds it appropriate for the applicant's restaurant to enact similar hours to grant the restaurant greater flexibility in their operations.

Staff also finds the applicant's requested closing hour of 2 a.m. to be reasonable for a restaurant use in this location. While late night hours vary in the general area, staff finds the restaurant's location away from other uses minimizes potential noise and activity impacts, and extending the hours of operation has a low likelihood of creating a negative impact. Physically, the restaurant is located in the middle of a surface parking lot and all adjacent uses are similarly surrounded by large surface parking lots, creating a sizable buffer between the applicant's site and other uses. In addition, the public entrance for the applicant's restaurant is oriented towards Duke Street, which faces away from adjacent uses. Therefore it is likely that most patron activity would occur on the far end of the parking lot, away from other uses. Staff also feels a restaurant with dining choices open until 2 a.m. would provide a dining opportunity for both residents and workers with late shifts. Staff developed Condition #12 to enable the applicant to remain open until 2 a.m., daily, allowing them the flexibility to adjust their restaurant hours to meet market demand. Nonetheless, staff has included additional conditions for the applicant's request to further minimize the potential impact of noise during later hours. Condition #13 requires that all live entertainment must end by 1 a.m. and Condition #14 prohibits the use of cover charges for events at the restaurant to ensure live entertainment is secondary to the primary nature of the use as a restaurant.

Staff has also added modern-day standard Special Use Permit conditions to this SUP report. Standard conditions include those regulating parking, littering, delivery vehicles, and the storage and disposal of trash. In addition to new conditions, staff deleted Conditions #1 - #6 regulating the specific landscaping requirements that were relevant to site development. The applicant is required, however, to maintain the existing landscaping in good condition, as stated in Condition #8, which has been added to replace Conditions #1 - #6. Staff carried forward Condition #7 which requires the applicant to replace plant for plant all plant material which dies.

Subject to the conditions stated in Section III of this report, staff recommends approval of the Special Use Permit request.

III. RECOMMENDED CONDITIONS

Staff recommends **approval** subject to compliance with all applicable codes and ordinances and the following conditions:

1. **CONDITION DELETED BY STAFF AND REPLACED WITH CONDITION 8:**
~~Eliminate all Dogwood trees in all areas where there is enough room to place a 2 1/2" - 3" caliper deciduous tree, use Zelkova serrata, Japanese Zelkova or similar in place of Dogwood trees. (SUP #1058)~~

2. **CONDITION DELETED BY STAFF AND REPLACED WITH CONDITION 8:** ~~Use one type of Dogwood, i.e., use Kornus florida rubra and eliminate Kornus Kousa. (SUP #1058)~~
3. **CONDITION DELETED BY STAFF AND REPLACED WITH CONDITION 8:** ~~Use 2" — 3" of mulch in all planted areas. (SUP #1058)~~
4. **CONDITION DELETED BY STAFF AND REPLACED WITH CONDITION 8:** ~~Use ground cover material such as Ivy and Vinca in all other earthen areas not covered by shrubs around entire perimeter of site. (SUP #1058)~~
5. **CONDITION DELETED BY STAFF AND REPLACED WITH CONDITION 8:** ~~All plants except the ground cover will be balled and burlapped. (SUP #1058)~~
6. **CONDITION DELETED BY STAFF AND REPLACED WITH CONDITION 8:** ~~All Zelkova trees to be of hardy stock and true to natural habitat. (SUP #1058)~~
7. That the owner replace plant for plant, (at a reasonable size) all plant material which for any reason dies and replace the plant material within two weeks of removal of the dead plants. (SUP #1058)
8. **CONDITION ADDED BY STAFF:** All landscaping shall be maintained in good condition. (P&Z)
9. **CONDITION ADDED BY STAFF:** The Special Use Permit shall be granted to the applicant only or to any corporation in which the applicant has a controlling interest. (P&Z)
10. **CONDITION ADDED BY STAFF:** The maximum number of indoor seats shall be 235. (P&Z)
11. **CONDITION ADDED BY STAFF:** The applicant shall post the hours of operation at the entrance to the business. (P&Z)
12. **CONDITION ADDED BY STAFF:** The hours of operation shall be limited to between 11 a.m. and 2 a.m., daily. Meals and drinks ordered before 2 a.m., may be served, but no new patrons may be admitted and no alcoholic beverages may be served after 2 a.m. All patrons must leave by 3 a.m., daily. (P&Z)
13. **CONDITION ADDED BY STAFF:** Live entertainment is permitted between 11 a.m. and 1 a.m., daily. (P&Z) (T&ES)
14. **CONDITION ADDED BY STAFF:** No admission or cover fee shall be charged for live entertainment. Any advertising of the entertainment shall reflect the subordinate nature of the entertainment to the principal function of the restaurant as an eating establishment by featuring the food service as well as the entertainment. (P&Z)

15. **CONDITION ADDED BY STAFF:** No delivery of food to customers may operate from the restaurant. (P&Z)
16. **CONDITION ADDED BY STAFF:** 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 the underage sales of alcohol. (P&Z)
17. **CONDITION ADDED BY STAFF:** No food, beverages, or other materials shall be stored outside. (P&Z)
18. **CONDITION ADDED BY STAFF:** On-premises alcohol sales may be permitted at the restaurant. (P&Z)
19. **CONDITION ADDED 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 closed containers which do not allow invasion by animals. No trash or debris shall be allowed to accumulate on site outside of the containers. Outdoor containers shall be maintained to the satisfaction of the Directors of Planning & Zoning and Transportation & Environmental Services, including replacing damaged lids and repairing/replacing damaged dumpsters. (P&Z)(T&ES)
20. **CONDITION ADDED BY STAFF:** The applicant shall require its employees who drive to use off-street parking. (T&ES)
21. **CONDITION ADDED BY STAFF:** The applicant shall encourage its employees to use public transportation to travel to and from work. Within 60 days of SUP approval, the business shall contact the Local Motion at localmotion@alexandriava.gov for information on establishing an employee transportation benefits program. (T&ES)
22. **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 Local Motion at localmotion@alexandriava.gov for more information about available resources. (T&ES)
23. **CONDITION ADDED BY STAFF:** No outdoor dining is permitted. (T&ES)
24. **CONDITION ADDED BY STAFF:** All loudspeakers shall be prohibited from the exterior of the building, and no amplified sounds shall be audible at the property line. (T&ES)
25. **CONDITION ADDED BY STAFF:** Kitchen equipment, including floor mats, shall not be cleaned outside, nor shall any cooking residue or wash water be washed into the streets, alleys or storm sewers. (T&ES)
26. **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)

27. **CONDITION ADDED BY STAFF:** All waste products including but not limited to organic compounds (solvents and cleaners) shall be disposed of in accordance with all local, state and federal ordinances or regulations. (T&ES)
28. **CONDITION ADDED BY STAFF:** Supply deliveries, loading, and unloading activities shall not occur between the hours of 11 p.m. and 7 a.m. (T&ES)
29. **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)
30. **CONDITION ADDED BY STAFF:** If used cooking oil is stored outside, the drum shall be kept securely closed with a bung when not receiving used oil, it shall be placed on secondary containment, and it shall be kept under cover to prevent rainwater from falling on it. (T&ES)
31. **CONDITION ADDED BY STAFF:** 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, 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: Alex Dambach, Land Use Division Chief, Department of Planning and Zoning;
Sara Brandt-Vorel, 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 restaurant is within 150 feet from residential buildings, and potentially could result in noise issues associated with loud music. (T&ES)
- R-1 The applicant shall require its employees who drive to use off-street parking. (T&ES)
- R-2 The applicant shall encourage its employees to use public transportation to travel to and from work. Within 60 days of SUP approval, the business shall contact the Local Motion at localmotion@alexandriava.gov for information on establishing an employee transportation benefits program. (T&ES)
- R-3 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 Local Motion at localmotion@alexandriava.gov for more information about available resources. (T&ES)
- R-4 No outdoor dining is permitted. (T&ES)
- R-5 All loudspeakers shall be prohibited from the exterior of the building, and no amplified sounds shall be audible at the property line. (T&ES)
- R-6 Kitchen equipment, including floor mats, shall not be cleaned outside, nor shall any cooking residue or wash water be washed into the streets, alleys or storm sewers. (T&ES)
- R-7 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-8 All waste products including but not limited to organic compounds (solvents and cleaners) shall be disposed of in accordance with all local, state and federal ordinances or regulations. (T&ES)
- R-9 Supply deliveries, loading, and unloading activities shall not occur between the hours of 11:00 p.m. and 7:00 a.m. (T&ES)
- R-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. (T&ES)

- R-11 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 do not allow invasion by animals. No trash or debris shall be allowed to accumulate on site outside of the containers. Outdoor containers shall be maintained to the satisfaction of the Directors of Planning & Zoning and Transportation & Environmental Services, including replacing damaged lids and repairing/replacing damaged dumpsters. (T&ES)
- R-12 If used cooking oil is stored outside, the drum shall be kept securely closed with a bung when not receiving used oil, it shall be placed on secondary containment, and it shall be kept under cover to prevent rainwater from falling on it. (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 City Council 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)

Fire Department:

No comments or concerns.

Code Enforcement:

No comments or concerns.

Health Department:

No comments.

Recreation, Parks and Cultural Activities:

No comments received.

Police Department:

No comments or concerns.