



## ARLINGTON COUNTY, VIRGINIA

### County Board Agenda Item Meeting of July 8, 2006

**DATE:** June 26, 2006

**SUBJECT:** SP#106 SITE PLAN AMENDMENT for outdoor restaurant/retail seating plan for the premises known as 2756, 2762, 2766, 2768, 2770, 2772, 2774, 2780 S. Quincy St., 4013, 4014, 4015, 4017, 4019, 4021, 4025, 4028, 4029, 4031, 4039, 4043, 4044, 4047, 4052, 4053 S. 28<sup>th</sup> St., 2772 S. Arlington Mill Dr. (RPC #29-020-003, -004, -005, -006, -007, -008, -009, -010, -011, -012, -013, -014, -015, -016, -017, -018, -019, -020, -021, -022, -023, -024; 29-019-024)

**Applicants:**

Robert Blackwell (Maggie Moos)  
4014 28<sup>th</sup> Street South  
Arlington, Virginia 22206

Andy Shallal (Luna Grill)  
4024 28<sup>th</sup> Street South  
Arlington, Virginia 22206

Daljeet Singh (Aroma Restaurant)  
4040 28<sup>th</sup> Street South  
Arlington, Virginia 22206

Walid Boustany (Aladdin's Eatery)  
4044 28<sup>th</sup> Street South  
Arlington, Virginia 22206

Peter Yoo (Bonsai Grill)  
4052 28<sup>th</sup> Street South  
Arlington, Virginia 22206

Supat Oursinsiri (Thai in Shirlington)  
4029 28<sup>th</sup> Street South  
Arlington, Virginia 22206

Street Retail, Inc.

County Manager: \_\_\_\_\_

Staff: Rasheda R. DuPree, DCPHD, Planning Division

PLA-4402

**BY:**

Timothy S. Sampson, Attorney/Agent  
Walsh, Colucci, Lubeley, Emrich & Walsh  
2200 Clarendon Boulevard, 13<sup>th</sup> Floor  
Arlington, Virginia 22201

**C.M. RECOMMENDATION:**

Renew, subject to all previous conditions with a County Board review in one (1) year (July 2007).

**ISSUES:** None.

**SUMMARY:** On July 9, 2005, the County Board approved outdoor seating for several restaurants in Phase I of the Villages of Shirlington with several conditions including a minimum of six (6) feet clear pathway along the sidewalk fronting the establishment and demarcation of the space with a fixed, immovable barrier. The approved site plan amendment permits curbside dining as well as outdoor seating areas adjacent to the building facades. The outdoor seating has operated in compliance with the approved site plan amendment and contributes to the active streetscape which defines the character of the Village at Shirlington. Therefore, staff recommends renewal of the site plan amendment, subject to all previous conditions, and with a review by the County Board in one (1) year (July 2007).

**BACKGROUND:** In June 1992, a site plan amendment for the first outdoor café in Shirlington was approved, with a one (1) year administrative review, at the Carlyle Grand restaurant for a maximum of 38 seats. Since that time, restaurants applied for site plan amendments for outdoor seating on an individual basis. During the reviews of these requests, staff determined that several restaurants had placed the outdoor seating in areas which encroached on the public right-of-way without approval from the County Board. In order to consolidate these requests and to ensure proper location of the outdoor seating, Federal Realty Investment Trust (FRIT) applied for and, on July 9, 2005, obtained approval of the subject site plan amendment for outdoor seating for all retail and restaurant uses within the Village at Shirlington. The approval did not restrict each use to a specific number of seats, but rather requires each tenant to maintain a 6-foot clear path zone so as not to encumber pedestrian circulation. The approval further states that each seating area will be demarcated by fixed, immovable barriers enclosing each dining area and that each area must comply with ADA accessibility standards. Each tenant was required to submit an administrative change request to show the individual seating plans and compliance with the conditions of the overall approval.

The following provides a history of County Board approvals of outdoor seating at the Villages at Shirlington:

<b>Restaurant</b>	<b>Date of Approval</b>
Carlyle Grand	June 13, 1992
California Pizza Kitchen	May 7, 1994
Thai in Shirlington	October 14, 1995

Capital City Brewing Company	November 16, 1996 (The County Board approved an expansion of the approved outdoor seating on July 8, 1998)
Guapos	October 13, 2001
Best Buns	June 14, 2003
Maggie Moos, Luna Grill, Aladdin's Eatery, Bonsai Grill, increase in seating for Thai in Shirlington, outdoor seating for 2756, 2762, 2766, 2768, 2770, 2772, 2774, 2780 S. Quincy St., 4013, 4014, 4015, 4017, 4019, 4021, 4025, 4028, 4029, 4031, 4039, 4043, 4044, 4047, 4052, 4053 S. 28 <sup>th</sup> St., 2772 S. Arlington Mill Dr.	July 9, 2005

**DISCUSSION:** Pursuant to the approved conditions for the outdoor seating for restaurants in Phase I of the Villages of Shirlington, the applicant submitted and obtained approval, on April 6, 2006 from the Zoning Administrator, of an administrative change request. This application, submitted by FRIT on behalf of its tenants, included plan-view drawings which depicted each seating area and the required six-foot clear walkway. The Site Plan Inspector has installed markers in the mortar joints in the sidewalks to indicate the limit of each outdoor seating area to maintain the required six-foot clearance. The site plan amendment conditions further require that each seating area be separated from the pedestrian walkway by non-moveable barriers. The administrative approval required that such barriers are to be erected by July 6, 2006. There are currently ten restaurants with outdoor seating in Phase I Shirlington. At the date of this report, a total of three restaurants were in compliance with this requirement, while the remaining restaurants, Bistro Bistro, Thai in Shirlington, Extra Virgin, Charlie Chaing's, Aroma, Best Buns, and Carlyle Grand were awaiting the delivery of their respective barriers. A final inspection of the outdoor seating and associated barriers is scheduled for July 6, 2006. Updated information will be provided upon that inspection.

**Since the County Board approval in July 2005:**

Site Plan Amendment Conditions: The site is in compliance with all site plan conditions.

Site Plan Inspector: The Site Plan Inspector has no objections to the continuation of the outdoor seating use.

Fire Marshal's Office: The Fire Marshal's office did not express any concerns regarding the continuation of the proposed outdoor seating use.

Police Department: The Police Department did not express any concerns regarding the continuation of the proposed outdoor seating use.

State ABC Board: The State ABC staff states that they have no issues with continuation of the proposed outdoor seating use.

Civic Association: The subject property is not located within a civic association boundary. However, staff contacted the abutting Fairlington Citizens Association and several other nearby community groups including, Fairlington Commons Council of Co-Owners, Fairlington Glen Council of Co-Owners, Fairlington Mews Council of Co-Owners, Fairlington Villages Unit Owners, and Fairlington Neighborhood Conservation Association. The Fairlington Neighborhood Conservation Association representative has expressed concern regarding the lack of curbside seating. Fairlington Citizens Association passed a motion asking the County Board not to extend the sidewalk café use and cited that only one restaurant has implemented curbside seating. This restaurant, Extra Virgin, erected seating within an area which was not expressly approved. The restaurant has since removed their curbside seating and an illegal sandwich board sign. Staff notes that the County Board approved a site plan amendment to permit outdoor dining both along the building facades and at the curbside. During the past year, the majority of outdoor seating areas erected in Phase I of the Villages at Shirlington have operated in compliance with minimum clearance requirements with few exceptions. Staff finds that the applicants have actively pursued their site plan amendment approval within the past year by implementing outdoor seating as a whole, and staff makes no distinction between the implementation of either building-frontage or curbside outdoor seating areas.

**CONCLUSION:** Over the past year, Shirlington outdoor seating has operated successfully and has provided a vibrant urban streetscape environment. On behalf of the applicants, FRIT has designated Dave Tran as the community liaison to disseminate information regarding the outdoor seating use and to respond to questions or concerns. Once non-moveable barriers are installed at each seating area, the required six-foot pedestrian walkway will become a fixed, unobstructed path, and issues regarding seating placement and illegal signs have been addressed. Therefore, staff recommends that the site plan amendment be renewed, subject to all previous conditions, and with a County Board review in one (1) year (July 2007).

PREVIOUS COUNTY BOARD ACTIONS:

- October 9, 1976                      Approved a rezoning from “C-2” to “C-O-1.5” (Z-2086-76-3); and approved a Phased Development Site Plan. The approval expired in 1981.
- December 4, 1982                    Approved a Phased Development Site Plan (PDSP), on four parcels, consisting of 570,000 square feet of office space, 428,000 square feet of retail space, 300 hotel rooms, and 490 residential units; known as “Village of Shirlington.”
- July 13, 1985                        Approved PDSP amendment to increase the maximum building height on Parcel 3 from 10 stories (150 feet) to 11 stories (150 feet); and approved the final site plan for Phase II (SP-2) on Parcel 3, allowing an 11-story office building with 295,000 s.f. of office g.f.a. and 17,000 s.f of retail g.f.a.
- December 13, 1987                  Approved a PDSP amendment to transfer 85,895 square feet of office/retail area from Parcel Two to Parcel One; and Approved the Final Site Plan for Phase III (SP-3) on Parcel One, allowing a 6-story office building with 85,895 square feet of office/retail area, and a 10-story hotel with 299 units.
- November 14, 1992                  Approved one tenant identification sign 100.5 square feet in size on east elevation of building.
- April 9, 1994                        Approved conversion of approximately 4,000 sq. ft. of retail space to secondary retail use including classroom, copy facility, and shower/locker room space for an existing tenant for a period not to exceed 12 years (2006).
- January 11, 1997                    Approved a phased development site plan amendment and final site plan amendment to add two stories of studio/mechanical/technical support space above the existing parking garage structure and an atrium lobby between the office building and existing parking garage; three transmit and receive satellite dish antennae on the studio roof; up to three rooftop signs; and modification of use regulations to permit 50 percent compact spaces and to not count the proposed two floors and atrium as gross floor area for density purposes.

- July 20, 2001 Approved conversion of approximately 4,485 sq. ft. of retail space located on the first floor of the office building to office/commercial space.
- October 18, 2003 Approved site plan amendment request (SP #106) to amend PDSP and final site plan to convert hotel to residential (approx. 245 dwelling units) with modifications of use regulations for coverage and density; Lot 2-A First Addition to Village at Shirlington.
- March 13, 2004 Approved a site plan amendment (SP #106) for a rehearsal studio; dramatic and visual arts classes for children ages 4 and up, Classika Theater, with a review in one (1) year. March 2005.
- January 29, 2005 Approved site plan amendment (SP #106) for a comprehensive sign plan for 4013, 4015, 4017, 4021, 4025, 4031, 4039, 4043, 4047, 4052, 4053 South 28<sup>th</sup> Street, 2700, 2727, 2754, 2756, 2766, 2768, 2770, 2772, 2774, 2780 South Quincy Street, 2772 South Arlington Mill Drive, 2772, 2800 South Randolph Street, 2800 South Stafford Street (RPC #29-020-001, -002, -003, -004, -005, -006, -007, -008, -009, -010, -011, -012, -013, -014, -015, -016, -017, -018, -019, -020, -021, -022, -023, -024; 29-019-021, -022, -023 -024; 29-014-008, -009; 29-023-006; 29-003-026 [portion]).
- March 12, 2005 Renewed a site plan amendment (SP #106) for a rehearsal studio; dramatic and visual arts classes for children ages 4 and up, Classika Theater, with a review in one (1) year (March 2006).
- April 16, 2005 Deferred site plan amendment (SP #106) to permit outdoor restaurant at 4014, 4024, 4040, 4044, 4052 28th Street South (Maggie Moos, Luna Grill, Aroma Restaurant, Aladdin's Eatery, Bonsai Grill; Village at Shirlington; RPC # 29-019-024) to the June 18, 2005 County Board meeting.
- June 18, 2005 Deferred site plan amendment (SP #106) to permit outdoor restaurant at 4014, 4024, 4040, 4044, 4052 28th Street South (Maggie Moos, Luna Grill, Aroma Restaurant, Aladdin's Eatery, Bonsai Grill; Village at Shirlington; RPC # 29-019-024) to the July 9, 2005 County Board meeting.
- July 9, 2005 Approved site plan amendment (SP #106) to permit outdoor restaurant at Maggie Moos, Luna Grill, Aladdin's

Eatery, Bonsai Grill, increase in seating for Thai in Shirlington, and for outdoor seating for 2756, 2762, 2766, 2768, 2770, 2772, 2774, 2780 S. Quincy St., 4013, 4014, 4015, 4017, 4019, 4021, 4025, 4028, 4029, 4031, 4039, 4043, 4044, 4047, 4052, 4053 S. 28<sup>th</sup> St., 2772 S. Arlington Mill Dr.

Approved Conditions:

1. The applicants (as used in these conditions, the term applicant shall mean the owner and all successors and assigns) (Street Retail, Inc.) agree to maintain at least a six (6) foot clearance width along the sidewalk. The applicants further agree to work with the Department of Environmental Service to develop non-moveable barriers that would be affixed to the sidewalk to maintain a six (6) foot clear pedestrian travelway. The barriers should be removed on a seasonal basis when the café is not in use.
2. The applicants agree that outdoor cafés are permitted to be used during normal restaurant hours. There shall be no music or audio system piped outside to the cafés.
3. The applicants agree that prior to issuance of an occupancy permit for outdoor seating retail tenants requesting such seating shall seek administrative approval from the County prior to providing outdoor seating and shall designate a neighborhood liaison to communicate with nearby residents and neighbors to address concerns that may be related to the outdoor café. The name and telephone number of the liaison shall be submitted by the applicant to the Zoning Administrator, the Fairlington Civic Association, the Fairlington-Shirlington Neighborhood Conservation representative, and the Nauck Citizens Association.
4. The applicant agrees that outdoor seating associated with retail/restaurant uses along South 28<sup>th</sup> Street between South Quincy Street and South Randolph Street shall maintain the minimum standard of six feet of clear pedestrian space along the public-right-of-way and shall be provided in accordance with the plans entitled “Café Seating Areas and Sidewalk Clearpaths, Shirlington” prepared by Federal Realty Investment Trust, as revised June 10, 2005, and made part of the record at the July 9, 2005, County Board meeting. The applicant agrees that any furniture used in outdoor seating areas, including tables, chairs, railings, umbrellas, and planters shall be removed on a seasonal basis and not stored in front of the storefronts.
5. The applicant further agrees that where lampposts are located in the public right-of-way and adjacent to outdoor seating space, a four (4) foot wide clear space would be maintained on the inside of the lamppost as shown on plans dated June 10, 2005, and approved by the County Board at its meeting of July 9, 2005. The applicant agrees that the minimum four-foot clear space currently exists between the 4 lampposts in question and the edge of the sidewalk cafes affected (Carlyle Grand, Capitol Cities, Extra Virgin, and Curious Grape). The applicant further agrees to work with DES staff to relocate bike racks and moveable outdoor furniture that encumbers the clear space along South 28<sup>th</sup> Street.
6. The applicant agrees that all existing and future outdoor seating requests shall be required to be administratively approved by the County. All requests shall be required to submit accurate, scaled drawings depicting a minimum clear space in the public sidewalk (or public access easement) across the applicant’s entire frontage. The dimension of this minimum clear space could vary from block to block, but should in no circumstances be

less than six (6) feet. Reasonable allowance should also be made for occasional pinch points; however, ADA requirements must be maintained at all times. All graphics should show how the applicant's clear space links up to any adjacent sidewalks and required clear spaces.