

EXHIBIT NO. 1

3
2-23-02

Docket Item # 2
SPECIAL USE PERMIT #2001-0129

Planning Commission Meeting
February 5, 2002

ISSUE: Consideration of a request for a special use permit to change the ownership of a restaurant.

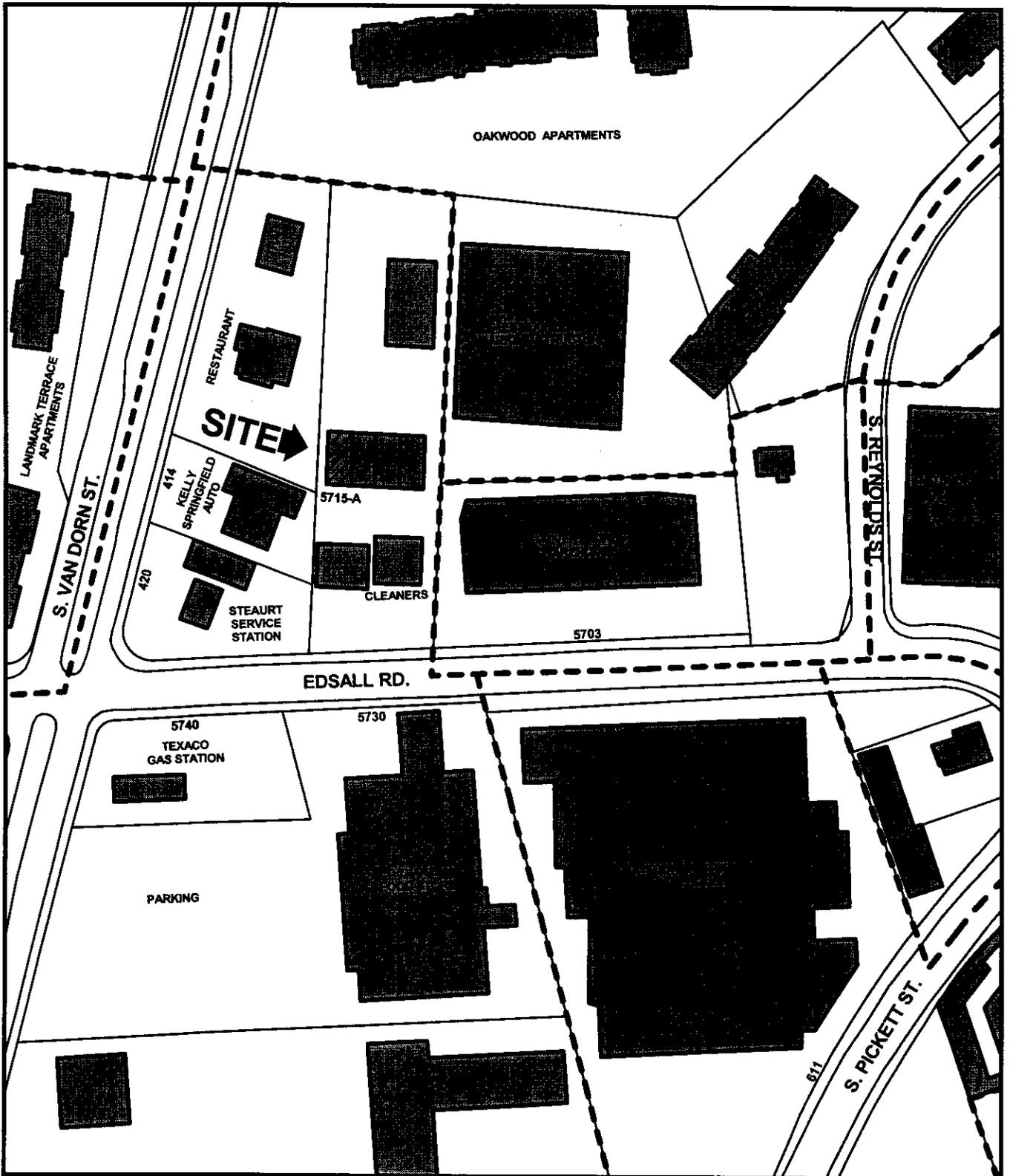
APPLICANT: Chunlin Zhou

LOCATION: 5715-A Edsall Road
Edsall Center
New Szechuan Express Restaurant

ZONE: CG/Commercial General

PLANNING COMMISSION ACTION, FEBRUARY 5, 2002: By unanimous consent, the Planning Commission recommended approval of the request, subject to compliance with all applicable codes, ordinances and staff recommendations.

Reason: The Planning Commission agreed with the staff analysis.



SUP #2001-0129

02/05/02



STAFF RECOMMENDATION:

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 #97-0170)
2. No seating shall be provided for use by patrons. (P&Z)(SUP 2734)
3. No outside dining facilities shall be located on the premises. (P&Z)(SUP 2734)
4. The hours of operation shall be limited to 11:00 A.M. to 1:00 A.M., seven days a week. (P&Z)(SUP 2734)
5. No food, beverages, or other material shall be stored outside. (P&Z)(SUP 2734)
6. **CONDITION AMENDED BY STAFF:** Trash and garbage ~~shall be stored inside or in a dumpster~~ 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 and debris shall be allowed to accumulate on site outside of those containers. (P&Z)(SUP 2734)
7. Trash and garbage shall be collected every day that service is available. (P&Z)(SUP 2734)
8. The applicant shall post the hours of operation at the entrance to the restaurant. (P&Z)(SUP 2734)
9. At least one trash container shall be located next to the entrance of the restaurant for the use of patrons, the container shall not be permitted to overflow, and the areas around the container shall be kept clean. This trash container shall be installed within six months of approval. (P&Z) (PC) (SUP #97-0170)
10. Condition deleted. (PC) (SUP #97-0170)
11. 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 2734)

12. No beer, wine or alcoholic beverages shall be sold. (P&Z)(SUP 2734)
13. Not more than eight delivery vehicles shall be permitted on-site at any one time. (P&Z)(SUP 2734)
14. Kitchen equipment shall not be cleaned outside nor shall any cooking residuals be washed into the streets, alleys or storm sewers. (T&ES)(SUP 2734)
15. **CONDITION AMENDED BY STAFF:** ~~All reasonable steps shall be taken to minimize cooking odors outside the restaurant.~~ 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. (P&Z)(SUP 2734) (T&ES)
16. **CONDITION RENEWED 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 employees. (Police) (SUP #97-0170)
17. **CONDITION AMENDED BY STAFF:** The Director of Planning and Zoning shall review the special use permit one year after approval 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, (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, 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 #97-0170)
18. **STANDARD CONDITION ADDED BY STAFF:** The applicant shall require its employees who drive to work to use off-street parking. (P&Z)

DISCUSSION:

1. The applicant, Chulin Zhou, requests special use permit approval to change the ownership of an existing restaurant, Szechuan Express, located at 5715-A Edsall Road. The applicant does not propose any changes to the existing operation.
2. The subject property is one lot of record with 146.4 feet of frontage on Edsall Road, 555 feet of depth and a total lot area of 1.9 acres. The site is developed as an industrial park called Edsall Center. It has five warehouse buildings occupied by a variety of retail, light industrial and personal service uses. The subject restaurant is located several buildings into the lot towards the rear of the lot. The surrounding land uses along Edsall Road are commercial.
3. The existing restaurant with carry-out and delivery service was approved by City Council on October 16, 1993, under Special Use Permit #2734. Three change of ownership applications were subsequently approved in April 1995, March 1997 and February 1998. The 1998 application was docketed for public hearing because of violations of conditions and then approved by City Council.
4. On December 3, 2001, staff visited the subject property to determine if the business was in compliance with the conditions of its special use permit. Staff found and issued a ticket for violations of Conditions #6, #8, #9, and #11. Staff, therefore, then docketed the subject change of ownership application for public hearing. Condition #6 requires that trash and garbage shall be stored inside or in a dumpster. Condition #8 requires the applicant to post the hours of operation at the entrance to the restaurant. Condition #9 requires the applicant to place at least one trash container next to the entrance to the restaurant. Condition #11 requires the applicant to clean up litter on the site within 75 of the restaurant.
5. The existing restaurant provides only carry-out and delivery service. It is not permitted to have seating for patrons either inside or outside the restaurant. The hours of operation are daily 11:00 a.m. to 1:00 a.m. The restaurant is not permitted to sell alcoholic beverages and is allowed to have a maximum of eight delivery vehicles on-site at any one time.
6. Zoning: The subject property is located in the CG (Commercial General) zone. Section 4-400 of the zoning ordinance allows a restaurant use in the CG zone only with a special use permit.
7. Master Plan: The proposed use is consistent with the Landmark/Van Dorn Small Area Plan chapter of the Master Plan which designates the property for commercial use.

STAFF ANALYSIS:

Staff has no objection to the continued operation of the existing carry-out and delivery restaurant located at 5715-A Edsall Road. The applicant has corrected the violations for which he was recently issued a ticket. He has cleaned up the on-site trash and litter, placed a trash can at the front of the restaurant, and posted the hours of operation.

Staff does not recommend any specific site improvements. The restaurant is located within an industrial park and is not close to the public right-of-way. The existing conditions require the applicant to maintain the site in a neat and litter-free manner. Staff believes this to be one of the largest contributions the subject restaurant can make to the surrounding community.

Staff recommends a review one year after approval in order to assure continued compliance with the special use permit conditions.

STAFF: Eileen P. Fogarty, Director, Department of Planning and Zoning;
Barbara Ross, Deputy Director;
Mary Hashemi, Urban Planner.

CITY DEPARTMENT COMMENTS

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

Transportation & Environmental Services:

- 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.
- 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.

Code Enforcement:

- F-1 No comments.

Health Department:

- C-1 An Alexandria Health Department Permit is required for all regulated facilities.
- C-2 Permits are non-transferable.
- C-3 This facility must meet current Alexandria City Code requirements for food establishments. Contact Environmental Health at 703-838-4400 Ext. 255 to arrange for a "change of ownership" inspection.
- C-4 If changes to the facility are to be done, five sets of plans must be submitted to and approved by this department prior to construction. Plans must comply with the Alexandria City Code, Title 11, Chapter 2, Food and Food Establishments. There is a \$135.00 fee for review of plans for food facilities.

- C-5 Permits must be obtained prior to operation.
- C-6 The facility must comply with the Alexandria City Code, Title 11, Chapter 10, Smoking Prohibitions.
- C-7 Certified Food Managers must be on duty during all hours of operation.
- C-8 Restrooms, including those in common areas, serving the restaurant, are to meet Alexandria City Code, Title 11, Chapter 2 requirements.
- C-9 This facility is currently operating as New Szechuan Express under permit #16F-503-1, issued to Y&H, LLC.
- C-10 Provide a menu or list of foods to be handled at this facility to the Health Department prior to opening.

Police Department:

- R-1 Security survey for the business.
- R-2 Robbery awareness program for all employees.
- R-3 The applicant is not seeking an ABC permit. The police department concurs with this.

APPLICATION for SPECIAL USE PERMIT # 2001-0129

Change of Ownership or Minor Amendment

[must use black ink or type]

PROPERTY LOCATION: ~~5715A~~ Edsall Rd, Alexandria, VA 22304

TAX MAP REFERENCE: _____ ZONE: _____

APPLICANT Name: Chunlin Zhou

Address: 6274 Hillside Rd, Springfield, VA 22152

PROPERTY OWNER Name: Chunlin Zhou

Address: 6274 Hillside Rd, Springfield, VA 22152

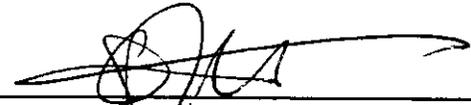
SITE USE: Restaurant

THE UNDERSIGNED hereby applies for a Special Use Permit for Change in Ownership, in accordance with the provisions of Article XI, Division A, Section 11-503 (5)(f) of the 1992 Zoning Ordinance of City of Alexandria, Virginia. THE UNDERSIGNED, having read and received a copy of the special use permit, hereby agrees to comply with all conditions of the current special use permit, including all other applicable City codes and ordinances.

THE UNDERSIGNED hereby applies for a Special Use Permit for Minor Amendment, in accordance with the provisions of Article XI, Division A, Section 11-509 and 11-511 of the 1992 Zoning Ordinance of City of Alexandria, Virginia.

THE UNDERSIGNED, having obtained permission from the property owner, hereby requests this special use permit. The undersigned also attests that all of the information herein required to be furnished by the applicant are true, correct and accurate to the best of their knowledge and belief.

Chunlin Zhou
Print Name of Applicant or Agent


Signature

6274 Hillside Rd
Mailing/Street Address

703-866-5223
Telephone # Fax #

Springfield, VA 22152
City and State Zip Code

12/29/01
Date

DO NOT WRITE BELOW THIS LINE - OFFICE USE ONLY

Application Received: _____ Date & Fee Paid: _____ \$
Legal Advertisement: _____

ADMINISTRATIVE ACTION: _____

Date Director, Planning & Zoning

The following information must be furnished to the Department of Planning and Zoning to determine if the current use conducted on the premises complies with the special use permit provisions and all other applicable codes and ordinances.

1. Please describe prior special use permit approval for the subject use.

Most recent Special Use Permit # 97-0170.

Date approved: 2 / 12 / 198
month day year

Name of applicant on most recent special use permit Matthew Yang

Use Restaurant.

2. Describe below the nature of the existing operation in detail so that the Department of Planning and Zoning can understand the nature of the change in operation; include information regarding type of operation, number of patrons served, number of employees, parking availability, etc. (Attach additional sheets if necessary)

~~No seating for patrons. - Hour of operation 11:00AM - 1:00AM
7 days/week
No outside dining facilities.
No food, beverages or other material stored outside.~~

Restaurant operation, mainly daily w/ delivery and take out. There are around 10-20 pickup food pickup patrons/day. Majority of business is generated thru delivery. There are present 2 employees within the company and there are parking space available.

4. Is the use currently open for business? Yes No

If the use is closed, provide the date closed. _____ / _____ / _____
month day year

5. Describe any proposed changes to the conditions of the special use permit:

None

6. Are the hours of operation proposed to change? Yes No
If yes, list the current hours and proposed hours:

Current Hours:

Proposed Hours:

7. Will the number of employees remain the same? Yes No
If no, list the current number of employees and the proposed number.

Current Number of Employees:

Proposed Number of Employees:

8. Will there be any renovations or new equipment for the business? Yes No
If yes, describe the type of renovations and/or list any new equipment proposed.

9. Are you proposing any change in the sales or service of alcoholic beverages? Yes No
If yes, describe proposed changes:

17. Each application shall contain a clear and concise statement identifying the applicant, including the name and address of each person owning an interest in the applicant and the extent of such ownership interest. If the applicant, or one of such persons holding an ownership interest in the applicant is a corporation, each person owning an interest in excess of ten percent (10%) in the corporation and the extent of interest shall be identified by name and address. For the purpose of this section, the term "ownership interest" shall include any legal or equitable interest held in the subject real estate at the time of the application. If a nonprofit corporation, the name of the registered agent must be provided.

Please provide ownership information here:

Chuanlin Zhou 100% ownership



ALEXANDRIA DEPARTMENT OF
PLANNING AND ZONING
301 King Street, Room 2100
Alexandria, Virginia 22314

NOTICE OF VIOLATION

YOU ARE CHARGED WITH VIOLATING THE
ALEXANDRIA, VIRGINIA ZONING ORDINANCE

December 3 2001 Monday 8:00 am
Date ticket served / Day of Week / Time AM/PM

Location of Violation: 5715-A Edsall

Ord. Section: 11-505

Description of Violation: Condition # 6 (trash and garbage shall be stored inside or in a dumpster), condition #8 (applicant shall post hours), Condition # 9 (at least one trash container shall be located

Penalty \$: 50.00 next to entrance
 1st 2nd 3rd/MORE
Condition # 11 (litter on adjacent spaces shall be picked up at least

IF THE VIOLATION IS NOT CORRECTED BY Dec 13 2001 day ADDITIONAL MONETARY PENALTY WILL BE ASSESSED.

Mario C. Johnson 102
Inspector's Signature ID Number

I personally observed or investigated the commission of the violation noted above and/or violation was based upon signed affidavit.

- VIOLATORS COPY - WHITE
- CITY ATTORNEY COPY - YELLOW
- FINANCE COPY - PINK
- PLANNING AND ZONING COPY - ORANGE

SUP 97-0170

NOTICE SERVED ON:

NAME: LAST FIRST MIDDLE

PROPERTY OWNER
 COMPANY

NAME

POSITION

OTHER

ADDRESS

CITY/TOWN STATE ZIP

SIGNATURE DATE

I hereby acknowledge receipt of this Notice of Violation. Signature is not an admission of guilt.

PERSON REFUSED TO SIGN DATE

CERTIFICATE OF SERVICE

Mailed/posted a true copy of this notice to the last known home or business address of the respondent or the respondent's agent

New Szechuan Express
Name of Person or Business Served

5715-A Edsall Rd.
Address of Service

Alexandria, Va 22304
City/State

Posted true copy of this notice at the site of the infraction

The undersigned states that he/she is an employee of the City of Alexandria Department of Planning and Zoning and knows this Certificate of Service to be true to the best of his/her knowledge.

12/03/01 Signature Mario C. Johnson
Date Print Name Mario C. Johnson
Phone # 838-4666

WARNING

YOU ARE REQUIRED TO RESPOND TO THIS NOTICE OF VIOLATION WITHIN 15 DAYS OF THE DATE OF SERVICE IN ONE OF THE FOLLOWING WAYS

Z-02

TICKET NO. 2272

1. TO PAY PENALTY AND WAIVE YOUR RIGHT TO A HEARING: ✓

- Check the "Admit Violation" or "No Contest" box below;
- Make personal check, cashier's check, certified check or money order payable to City of Alexandria. Do not send cash through the mail;
- Print violation notice number on the check or money order;
- Payment may be made by mail, or in person, at the Treasury Office, City Hall, 301 King Street, Room 1510, Alexandria, Virginia, between the hours of 8:00 a.m. - 5:00 p.m., Monday-Friday, phone 703-838-4949.

2. TO REQUEST A COURT HEARING:

- Check the "Contest in Court" box below and:
(a) Mail this completed notice to the Office of the City Attorney, City Hall, Suite 1300, 301 King Street, Alexandria, Virginia, 22314; or
(b) Appear in person or by an authorized representative, at the above address between the hours of 8:00 a.m. - 5:00 p.m., Monday-Friday, phone 703-838-4433.

- If you wish to contest this violation a date will be set for trial in the General District Court of Alexandria, Virginia. Failure to appear in court on the date set for trial, unless prior approval has been granted by a judge of that court, will result in the entry of a default judgement against you.

3. TO CONTEST THE INTERPRETATION OF THE ORDINANCE:

- You have the right to appeal the interpretation of the zoning ordinance upon which this violation is based to the Board of Zoning Appeals within 30 days in accordance with 15.2-2311 of the Code of Virginia. The interpretation shall be final and unappealable if not appealed within 30 days.

FOR INFORMATION CONCERNING THIS TICKET CALL PLANNING AND ZONING AT 703-838-4688

FAILURE TO RESPOND AS PROVIDED ABOVE WILL RESULT IN THE ISSUANCE OF A SUMMONS TO APPEAR IN COURT AND ANSWER TO THE VIOLATION FOR WHICH THIS NOTICE WAS ISSUED

YOU MUST COMPLETE AND SIGN THIS CERTIFICATION:

ADMIT VIOLATION NO CONTEST CONTEST IN COURT

Name (print) _____
Street Address _____
City _____ State _____ Zip _____

I hereby certify under penalty of law, that I have answered as indicated above, and corrected or made substantial efforts to correct the violation that I have admitted or for which I have pleaded no contest.

Signature _____ Date _____

SUP 2001-0129

APPLICATION for SPECIAL USE PERMIT # 2001-0129 ³

Change of Ownership or Minor Amendment

[must use black ink or type]

PROPERTY LOCATION: ~~5715A~~ Edsall ~~Rd~~ Rd, Alexandria, VA 22304

TAX MAP REFERENCE: 57.00-04-05 ZONE: CG

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PROPERTY OWNER Name: Chunlin Zhou

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Chunlin Zhou
Print Name of Applicant or Agent


Signature

6274 Hillside Rd
Mailing/Street Address

703-866-5223
Telephone # Fax #

Springfield, VA 22152
City and State Zip Code

12/29/01
Date

=====**DO NOT WRITE BELOW THIS LINE - OFFICE USE ONLY**=====

Application Received: _____ Date & Fee Paid: _____ \$ _____
Legal Advertisement: _____

ADMINISTRATIVE ACTION: 2/5/02 RECOMMENDED APPROVAL UC
ACTION - CITY COUNCIL: 2/23/2002PH-- City Council approved the
Planning Commission recommendation.

Date Director, Planning & Zoning