

EXHIBIT NO. 1

6
5-18-02

Docket Item # 13
SPECIAL USE PERMIT #2002-0043

Planning Commission Meeting
May 7, 2002

ISSUE: Consideration of a special use permit review and request to extend the hours of operation for an outdoor dining area for a restaurant.

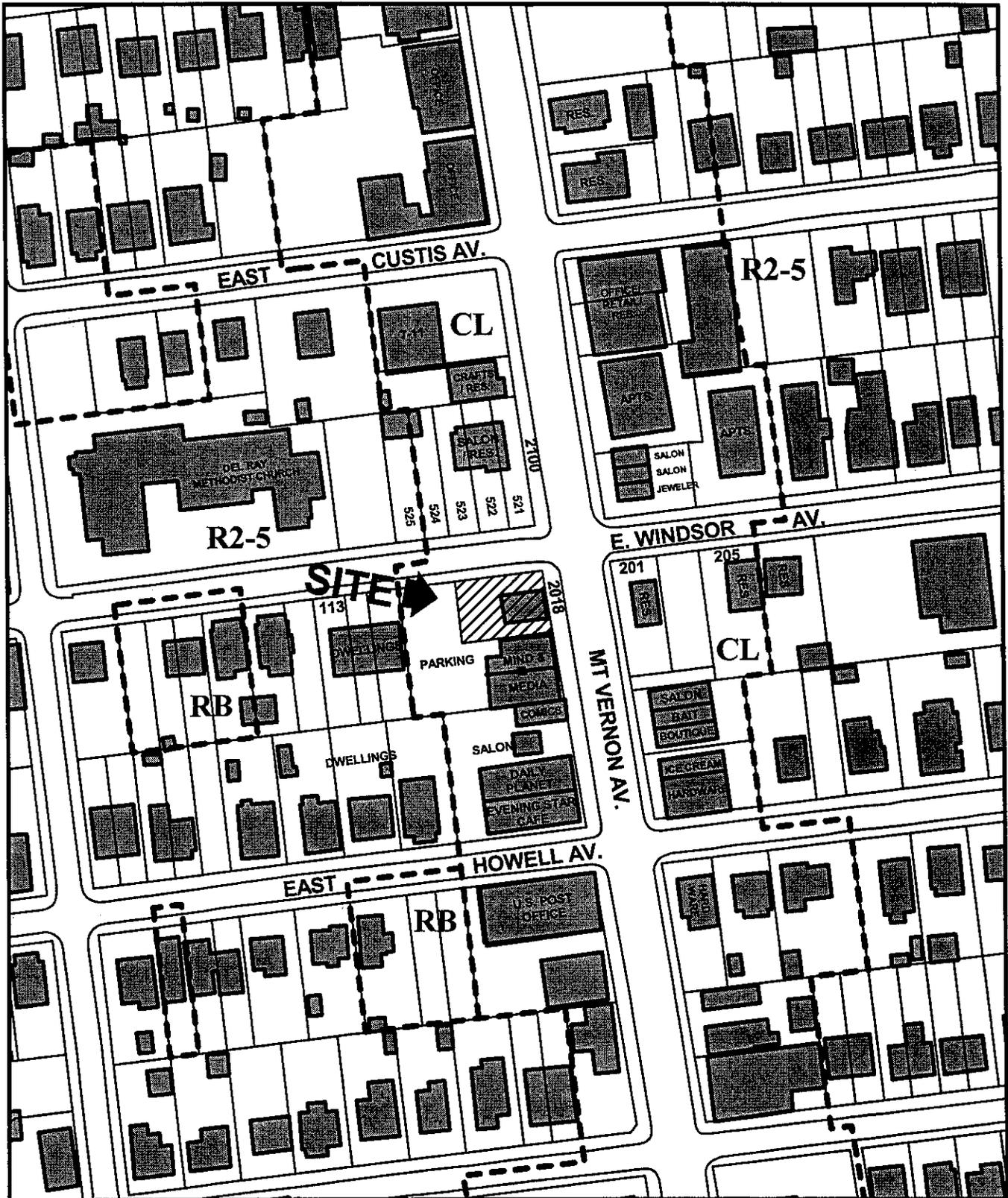
APPLICANT: Savitri Sakulsom

LOCATION: 2018 Mount Vernon Avenue
Thai Peppers Restaurant

ZONE: CL/Commercial Low

PLANNING COMMISSION ACTION, MAY 7, 2002: On a motion by Mr. Gaines, seconded by Mr. Leibach, the Planning Commission voted to recommend approval of the request, subject to compliance with all applicable codes, ordinances and staff recommendation. The motion carried on a vote of 7 to 0.

Reason: The Planning Commission agreed with the staff analysis.



SUP #2002-0043

05/07/02



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 #1732-E)
2. Indoor seating shall be provided for no more than 30 patrons, and a total of not more than 40 seats shall be provided, including the outdoor seating. (PC) (SUP #2000-0018)
3. Outside dining facilities may be located along the north side of the building for a maximum of 20 patrons. (P&Z) (SUP #95-0037)
4. No food, beverages, or other material shall be stored outside. (P&Z) (SUP #1732)
5. Trash and garbage shall be stored inside or in a dumpster. (P&Z) (SUP #1732)
6. One standard City trash container shall be provided in the front of the site and shall be installed within six months of City Council approval. (P&Z) (SUP #98-0036)
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 daily, and more often if necessary, to prevent an unsightly and unsanitary accumulation, on each day that the business is open to the public. (P&Z) (T&ES) (SUP #1732)
8. **CONDITION AMENDED BY STAFF:** The hours of operation for indoor dining shall be limited to 7:00 A.M. to 10:00 P.M. Sunday through Thursday and from 7:00 A.M. to 11:00 P.M. on Fridays and Saturdays. ~~(P&Z) (SUP #99-0074)~~ (P&Z)
9. The applicant shall post the hours of operation at the entrance to the restaurant. (P&Z) (SUP #1732-B)
10. The dumpster shall be screened. (P&Z) (SUP #1732-B)
11. The rear parking lot surface shall be repaired and thereafter maintained. (PC) (CC) (SUP #1732-B)

12. 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 invasion by animals. No trash and debris shall be allowed to accumulate on site outside of those containers. (P&Z) (SUP #99-0074)
13. Kitchen equipment shall not be cleaned outside nor shall any cooking residue be washed into the street or storm sewers. (T&ES) (SUP #95-0037)
14. Outside dining facilities shall be located in the area delineated on the accompanying plan, with design plans subject to the approval of the Director of Planning and Zoning. (P&Z) (SUP #95-0037)
15. **CONDITION AMENDED BY STAFF:** The hours of operation for outdoor seating shall be limited to 8:00 a.m. to ~~9:30~~ 10:00 p.m., daily. Outdoor seating shall be cleared of patrons by ~~9:30 p.m.~~ 10:00 p.m. and the area shall be cleaned and washed before ~~10:00 p.m.~~ 10:30 p.m. (P&Z) (SUP #95-0037)
16. No live entertainment shall be provided at the restaurant and no live or recorded entertainment shall be permitted outside. (P&Z) (SUP #95-0037)
17. **CONDITION AMENDED BY STAFF:** The Director of Planning and Zoning shall review the special use permit one year from the date of 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)
18. The applicant shall provide one shade tree and one ornamental tree to be planted to the north of the building. (Arborist) (SUP #95-0037)
19. 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 #98-0036)
20. The applicant shall control cooking odors and smoke from the property to prevent them from becoming a nuisance to neighboring properties, as determined by the Department of Health. (Health) (SUP #99-0074)

21. All exterior improvements, including signage, shall conform with the Mount Vernon Avenue Design Guidelines. (P&Z) (SUP #2000-0018)
22. **CONDITION ADDED BY STAFF: Meals ordered 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)**

DISCUSSION:

1. The applicant, Savitri Sakulsom, is before the Planning Commission for a review of the special use permit for a restaurant located at 2018 Mount Vernon Avenue.
2. The subject property is one lot of record with 55 feet of frontage on Mount Vernon Avenue, 76 feet of frontage on East Windsor Avenue, and a lot area of 4,400 square feet. The restaurant is located in a two story building and has a deck outside for outdoor dining. There is a parking lot with 10 parking spaces located behind the building. While the adjacent uses on Mount Vernon Avenue are commercial uses, the lots on Windsor Avenue, behind the restaurant, are residential.
3. A restaurant has been in operation at this location since 1984, when City Council granted Special Use Permit #1732 to Tony Gee to operate the Snack Bar, a 20 seat restaurant with carry-out service. Since then the restaurant has changed hands several times and is currently operated as Thai Peppers. On September 18, 1999, City Council granted Special Use Permit #99-0074 allowing the restaurant to operate one hour later than previously allowed on Fridays and Saturdays. No change was approved for the hours of operation of the outdoor dining area. On April 21, 2001, City Council reviewed and approved the continued operation of the restaurant. Included in the approval was a condition for one-year review because of a history of minor violations.
4. The applicant seeks permission to extend the operating hours of the outdoor dining area from 9:30 p.m. daily to 10:00 p.m. Sunday through Thursday, and until 10:30 p.m. on Fridays and Saturdays. No other changes to the restaurant are proposed.
5. On March 13, 2002, staff inspected the property to determine if the applicant was in compliance with the conditions of the special use permit. Staff observed a violation of the permit conditions and issued a citation. Specifically, staff observed more than the allowable number of chairs for indoor dining. On April 4, 2002, staff revisited the restaurant and found that the violation had been corrected. The restaurant was in compliance with all of the conditions of the special use permit.
6. Zoning: The subject property is located in the CL/Commercial Low zone. Section 4-103(M) of the zoning ordinance allows a restaurant in the CL zone only with a special use permit. The property does comply with the Mount Vernon Design Guidelines.
7. Master Plan: The proposed use is consistent with the Potomac West small area plan chapter of the Master Plan which designates the property for commercial use.

STAFF ANALYSIS:

Staff does not object to the continued operation of the restaurant located at 2018 Mount Vernon Avenue and supports the applicant's request for extending the hours for outdoor dining to 10:00 p.m. daily. Staff does not support the extension of the hours of operation to 10:30 p.m. on Fridays and Saturdays as proposed by the applicant.

The 10:00 p.m. closing time for the outdoor dining area is consistent with other restaurants found on Mount Vernon Avenue, such as Evening Star, located on the same block as Thai Pepper's, and the new restaurant located on the corner of Nelson and Mount Vernon Avenues. Staff is also recommending a 10:00 p.m. closing time for the proposed outdoor dining at Los Amigos (see SUP #2002-0019).

Staff has required a review of the restaurant one year from this approval in order to ensure that there are no problems associated with the later hours of operation for the outdoor seating. Additionally, given that the restaurant was issued a ticket for violating its special use permit, the one year review is an opportunity to ensure that the restaurant is in compliance with the conditions of the special use permit.

Staff recommends approval of the special use permit.

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

CITY DEPARTMENT COMMENTS

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

Transportation & Environmental Services:

F-1 No comments.

Code Enforcement:

F-1 No comments.

Health Department:

F-1 No comments.

Police Department:

F-1 No objections.

VP

APPLICATION for SPECIAL USE PERMIT # 2002-0043

[must use black ink or type]

PROPERTY LOCATION: 2018 Mt. Vernon Ave

TAX MAP REFERENCE: 34.04 06 11 ZONE: CL

X APPLICANT Name: SANDY MASON

Address: 4705 AUTUMN COVE CT. ALEX, VA. 22312

X PROPERTY OWNER Name: _____

Address: _____

PROPOSED USE: Extending hours of operation of outdoor seating

THE UNDERSIGNED hereby applies for a Special Use Permit in accordance with the provisions of Article XI, Section 11-500 of the 1992 Zoning Ordinance of the City of Alexandria, Virginia.

THE UNDERSIGNED, having obtained permission from the property owner, hereby grants permission to the City of Alexandria to post placard notice on the property for which this application is requested, pursuant to Article XI, Section 11-301(B) of the 1992 Zoning Ordinance of the City of Alexandria, Virginia.

THE UNDERSIGNED hereby attests that all of the information herein provided and specifically including all surveys, drawings, etc., required to be furnished by the applicant are true, correct and accurate to the best of their knowledge and belief. The applicant is hereby notified that any written materials, drawings or illustrations submitted in support of this application and any specific oral representations made to the Planning Commission or City Council in the course of public hearings on this application will be binding on the applicant unless those materials or representations are clearly stated to be non-binding or illustrative of general plans and intentions, subject to substantial revision, pursuant to Article XI, Section 11-207(A)(10), of the 1992 Zoning Ordinance of the City of Alexandria, Virginia.

SANDY MASON
Print Name of Applicant or Agent


Signature

4705 AUTUMN COVE CT.
Mailing/Street Address

(703) 209-2081
Telephone # Fax #

ALEXANDRIA, VA 22312
City and State Zip Code

4/11/02
Date

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

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

ACTION - PLANNING COMMISSION: _____

ACTION - CITY COUNCIL: _____

All applicants must complete this form. Supplemental forms are required for child care facilities, restaurants, automobile oriented uses and freestanding signs requiring special use permit approval.

1. The applicant is (check one) the Owner Contract Purchaser
 Lessee or Other: _____ of the subject property.

State the name, address and percent of ownership of any person or entity owning an interest in the applicant, unless the entity is a corporation or partnership in which case identify each owner of more than ten percent.

NARINA, INC.

If property owner or applicant is being represented by an authorized agent such as an attorney, realtor, or other person for which there is some form of compensation, does this agent or the business in which the agent is employed have a business license to operate in the City of Alexandria, Virginia?

- Yes. Provide proof of current City business license
 No. The agent shall obtain a business license prior to filing application, if required by the City Code.
2. Submit a floor plan and a plot plan with parking layout of the proposed use. One copy of the plan is required for plans that are 8½" x 14" or smaller. Twenty-four copies are required for larger plans or if the plans cannot be easily reproduced. The planning director may waive requirements for plan submission upon receipt of a written request which adequately justifies a waiver. This requirement does not apply if a Site Plan Package is required.

NARRATIVE DESCRIPTION

- X 3. The applicant shall describe below the nature of the request in detail so that the Planning Commission and City Council can understand the nature of the operation and the use, including such items as the nature of the activity, the number and type of patrons, the number of employees, the hours, how parking is to be provided for employees and patrons, and whether the use will generate any noise. (Attach additional sheets if necessary)

In Spring and Summer, restaurant is going to be (more) busy. The kitchen is quite small. When the restaurant has full occupied (indoor & outdoor), the restaurant will take longer time to served the food. The customers who sit outdoor always require to open late, so they can enjoy and relax a little bit longer after finishing the meal. Usually, the customers come to have dinner outdoor and enjoy the nice weather. ^{late} Many times the restaurant has to disappoint customers not to serve outdoor because it would be later than the closing ~~time~~ ^{time}. (Then, the restaurant lost the customer.)

Hour of operation of outdoor seating, the restaurant is allowed to operate until 9:30 PM. To provide better service and satisfy customers, the restaurant requests to extend hours of operation from 9:30 PM to 10:00 PM weekday (Sunday - Thursday) and 10:30 PM weekend (Friday and Saturday).

USE CHARACTERISTICS

4. The proposed special use permit request is for: (check one)

- a new use requiring a special use permit,
- a development special use permit,
- an expansion or change to an existing use without a special use permit,
- expansion or change to an existing use with a special use permit,
- other. Please describe: _____

5. Please describe the capacity of the proposed use:

A. How many patrons, clients, pupils and other such users do you expect? Specify time period (i.e., day, hour, or shift).

same

B. How many employees, staff and other personnel do you expect? Specify time period (i.e., day, hour, or shift).

same

6. Please describe the proposed hours and days of operation of the proposed use:

Day:

Sunday-Thurs.

Friday, Sat

Daily

Hours:

7 AM - 10 PM } indoor

7 AM - 11 PM } indoor

8 AM - ~~9:30~~ 10 PM } ~~indoor~~ } SUN-THURS

8 AM - 10:30 PM } FRI/SAT

7. Please describe any potential noise emanating from the proposed use:

A. Describe the noise levels anticipated from all mechanical equipment and patrons.

X

same

B. How will the noise from patrons be controlled?

same

8. Describe any potential odors emanating from the proposed use and plans to control them:

same

9. Please provide information regarding trash and litter generated by the use:

A. What type of trash and garbage will be generated by the use?

same

B. How much trash and garbage will be generated by the use?

same

C. How often will trash be collected?

same

D. How will you prevent littering on the property, streets and nearby properties?

same

10. Will any hazardous materials, as defined by the state or federal government, be handled, stored, or generated on the property?

Yes. No.

If yes, provide the name, monthly quantity, and specific disposal method below:

11. Will any organic compounds, for example paint, ink, lacquer thinner, or cleaning or degreasing solvent, be handled, stored, or generated on the property?

Yes. No.

If yes, provide the name, monthly quantity, and specific disposal method below:

12. What methods are proposed to ensure the safety of residents, employees and patrons?

ALCOHOL SALES

13. Will the proposed use include the sale of beer, wine, or mixed drinks?

Yes. No.

If yes, describe alcohol sales below, including if the ABC license will include on-premises and/or off-premises sales. Existing uses must describe their existing alcohol sales and/or service and identify any proposed changes in that aspect of the operation.

Beer & wine on-premise

PARKING AND ACCESS REQUIREMENTS

14. Please provide information regarding the availability of off-street parking:

A. How many parking spaces are required for the proposed use pursuant to section 8-200 (A) of the zoning ordinance?

10

B. How many parking spaces of each type are provided for the proposed use:

10 Standard spaces

_____ Compact spaces

_____ Handicapped accessible spaces.

_____ Other.

C. Where is required parking located? on-site off-site (check one)

If the required parking will be located off-site, where will it be located:

Pursuant to section 8-200 (C) of the zoning ordinance, commercial and industrial uses may provide off-site parking within 500 feet of the proposed use, provided that the off-site parking is located on land zoned for commercial or industrial uses. All other uses must provide parking on-site, except that off-street parking may be provided within 300 feet of the use with a special use permit.

D. If a reduction in the required parking is requested, pursuant to section 8-100 (A) (4) or (5) of the zoning ordinance, complete the PARKING REDUCTION SUPPLEMENTAL APPLICATION.

15. Please provide information regarding loading and unloading facilities for the use:

A. How many loading spaces are required for the use, per section 8-200 (B) of the zoning ordinance? _____

B. How many loading spaces are available for the use? _____

C. Where are off-street loading facilities located? _____

D. During what hours of the day do you expect loading/unloading operations to occur?

Morning

E. How frequently are loading/unloading operations expected to occur, per day or per week, as appropriate?

Once a week

16. Is street access to the subject property adequate or are any street improvements, such as a new turning lane, necessary to minimize impacts on traffic flow?

adequate

SITE CHARACTERISTICS

17. Will the proposed uses be located in an existing building? Yes No

Do you propose to construct an addition to the building? Yes No

How large will the addition be? _____ square feet.

18. What will the total area occupied by the proposed use be?

_____ sq. ft. (existing) + _____ sq. ft. (addition if any) = _____ sq. ft. (total)

19. The proposed use is located in: (check one)

a stand alone building a house located in a residential zone a warehouse

a shopping center. Please provide name of the center: _____

an office building. Please provide name of the building: _____

other, please describe: _____

VP

6

APPLICATION for SPECIAL USE PERMIT # 2002-0043

[must use black ink or type]

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SANDY MASON
Print Name of Applicant or Agent


Signature

4705 AUTUMN COVE CT.
Mailing/Street Address

(703) 209-2081
Telephone # Fax #

ALEXANDRIA, VA 22312
City and State Zip Code

4/11/02
Date

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

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

ACTION - PLANNING COMMISSION: 5-7-02 Recommend Approval 7-0

ACTION - CITY COUNCIL: 5/18/02PH--See attached. (SEPARATE MOTION)

REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES (continued)

ACTION CONSENT CALENDAR (continued)

Planning Commission (continued)

4. SPECIAL USE PERMIT #2002-0018
682 N ST ASAPH ST
SAUL CENTER
SIZZLING EXPRESS RESTAURANT
Public Hearing and Consideration of a request for a special use permit for additional outdoor seating for a restaurant; zoned CRMU-X/Commercial Residential Mixed Use. Applicant: Sizzling Express VII, by Kyng Ai Kim.

COMMISSION ACTION: Recommend Approval 7-0

5. SPECIAL USE PERMIT #2002-0019
1905 MT VERNON AV
LOS AMIGOS RESTAURANT
Public Hearing and Consideration of a request for a special use permit to add outdoor seating for a restaurant and for a parking reduction; zoned CL/Commercial Low. Applicant: Gustavo Erostegui.

COMMISSION ACTION: Recommend Approval 7-0

6. SPECIAL USE PERMIT #2002-0043
2018 MT VERNON AV
THAI PEPPERS RESTAURANT
Public Hearing and Consideration of a special use permit review and request to extend the hours of operation for a restaurant; zoned CL/Commercial Low. Applicant: Savitri Sakulsom.

COMMISSION ACTION: Recommend Approval 7-0

END OF ACTION CONSENT CALENDAR

City Council approved docket item no. 4 under the Action Consent Calendar as presented, noted the deferral of docket item nos. 22 and 23 under the Deferral/Withdrawal Consent Calendar, and considered docket item nos. 3, 5 and 6 under separate motions. The action of City Council follows:

3. City Council approved the Planning Commission recommendation, and added a new condition #22 to read as follows: "22. The Applicant shall provide free parking for patrons in the parking garage accessed from North St. Asaph Street." (Separate Motion) Note: Council considered this item at the end of the docket.

4. City Council approved the Planning Commission recommendation.

5. City Council approved the Planning Commission recommendation, and amended condition #18 to have the parking language for employees consistent with all of our other sups which reads as follows: "18. That employees who drive to work are required to use off-street parking." (Separate Motion)

REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES (continued)

ACTION CONSENT CALENDAR (continued)

Planning Commission (continued)

6. City Council approved the Planning Commission recommendation, and added the standard condition with respect to employees who drive to work which new condition #23 reads as follows: "23. That employees who drive to work are required to use off-street parking." (Separate Motion)

With respect to standard conditions that should automatically be part of a special use permit, staff was requested to make sure that they were contained in the special use permits before they come to Council. There should be no need for Council to be tweaking the conditions constantly at each meeting.

Council Action: _____

CONTESTED APPOINTMENTS

7. Alexandria Eisenhower Avenue-to-Duke Street Connector Task Force.
5 Citizens Residing in the Area Encompassed by the Following Civic Associations:

- Seminary Hill,
- Quaker Hill,
- Clover-College Park,
- Rosemont,
- Carlyle Towers Condominium Unit Owners Association, and
- Taylor Run.

City Council appointed George Foote, William Harvey, Ginny Hines Parry, Judith Miller and Thomas Raycroft as citizens residing in the area encompassed by the following civic associations: Seminary Hill, Quaker Hill, Clover-College Park, Rosemont, Carlyle Towers Condominium Unit Owners Association, and Taylor Run to the Alexandria Eisenhower Avenue-to-Duke Street Connector Task Force.

Council Action: _____

REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES (continued)

**Board of Architectural Review
Parker-Gray District**

8. Public Hearing and Consideration of an appeal of a decision of the Board of Architectural Review, Parker-Gray District, approving, as amended, after-the-fact alterations at 307 North Fayette Street, zoned CL Commercial. Applicant and Appellant: Karen Corbett-Sanders

BOARD ACTION: Approved, as amended, 4-0

Councilman Euille indicated there is a need to improve notification to those who do live in the historic districts, and possibly, we could include something in the tax notices when they are mailed.