

EXHIBIT NO. 1

7
1-25-03

Docket Item # 6
SPECIAL USE PERMIT #2002-0112

Planning Commission Meeting
January 7, 2003

ISSUE: Consideration of a request for a review of a special use permit to operate a nonconforming automobile service station use.

APPLICANT: Mount Vernon Service Center Inc.
by Erik J. Dorn

LOCATION: 1601 Mount Vernon Avenue
Exxon Station

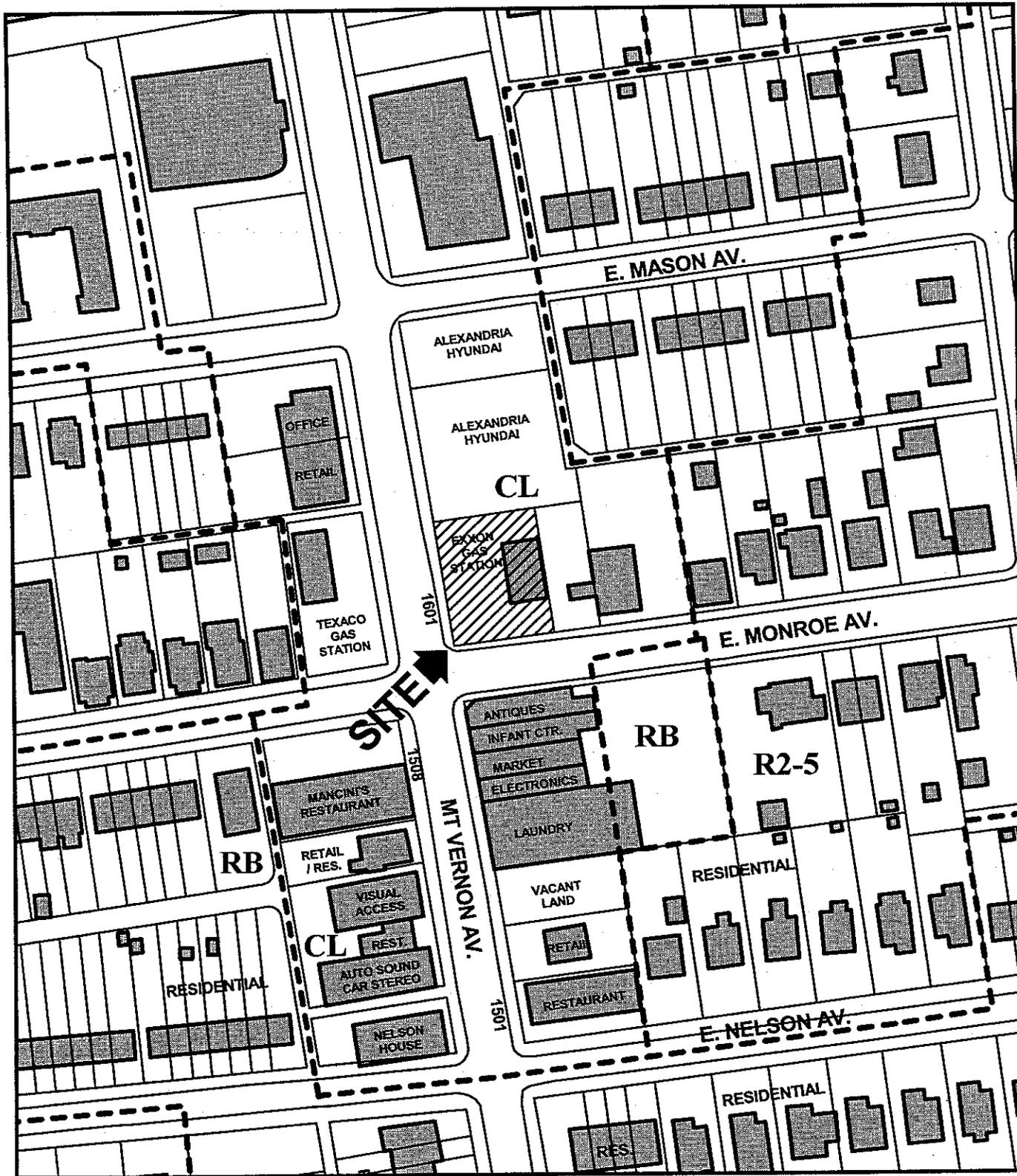
ZONE: CL/Commercial Low

PLANNING COMMISSION ACTION, JANUARY 7, 2003: On a motion by Mr. Komoroske, seconded by Mr. Leibach, the Planning Commission voted to recommend approval of the request, subject to compliance with all applicable codes, ordinances and staff recommendations and to amend Condition #10. The motion carried on a vote of 7 to 0.

Reason: The Planning Commission agreed with the staff analysis, and amended Condition #10 to add the requirement, as Del Ray Citizens Association requested, that the applicant improve the site by striping parking spaces and repainting the curb cuts.

Speakers:

Erik Dorn, the applicant, was present and responded to recommendations from the Del Ray Citizens Association saying that he is willing to stripe the two parking spaces located adjacent to the sidewalk to prevent cars from blocking the sidewalk, and is willing to restripe the curb cut lines.



SUP #2002-0112

01/07/03



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 #2001-0071)
2. Repair work done on the premises shall be limited to light automobile repair such as tune-ups, oil changes, brake and tire repair and hose and belt replacements as stated by the applicant. (P&Z) (SUP #2001-0071)
3. No repair work shall be done outside. (P&Z) (SUP #2001-0071)
4. No more than six repair vehicles shall be parked or stored outside at any time. (P&Z) (SUP #2001-0071)
5. No junked, abandoned, or stripped vehicles shall be parked or stored outside. (P&Z) (SUP #2001-0071)
6. No vehicles shall be displayed, parked, or stored on a public right-of-way. (P&Z)(SUP #2001-0071)
7. No vehicle parts, tires, or other materials shall be permitted to accumulate outside except in a dumpster or other suitable trash receptacle or enclosure. (P&Z) (SUP #2001-0071)
8. No amplified sound shall be audible at the property line. (P&Z) (SUP #2001-0071)
9. Loading and unloading of vehicles, if any, shall take place on-site and during the hours of operation. (P&Z) (SUP #2001-0071)
10. **CONDITION AMENDED BY PLANNING COMMISSION:** All vehicles on the lot shall be stored in a neat and orderly manner, the curb cuts shall be repainted, and the two parking spaces located adjacent to the sidewalk shall be striped to the satisfaction of the Director of Planning and Zoning. (PC) (P&Z)(SUP #2001-0071)
11. No expansion of the building or pump islands is permitted. (P&Z) (SUP #2001-0071)

12. Any change to the color of the building or signage must be approved by staff pursuant to the Mount Vernon Design Guidelines. (P&Z) (SUP #2001-0071)
13. The applicant shall remove all debris and weeds from the property and maintain the property in good condition. (P&Z) (SUP #2001-0071)
14. The applicant shall screen the dumpster to the satisfaction of the Director of Planning and Zoning and shall maintain the screening in good condition. (P&Z) (SUP #2001-0071)
15. The applicant shall either remove the two vending machines and the displays of oil and transmission fluid located outside the building or relocate them against the building wall within 60 days of approval. (P&Z) (SUP #2001-0071)
16. The applicant shall provide landscaping to the satisfaction of the Director of Planning and Zoning as follows:
 - (a) the asphalt shall be removed at the corner of Mount Vernon and Monroe Avenues in order to create a landscaped triangle, and
 - (b) additional planters with flowers shall be provided on the pump islands similar to the existing planters. The applicant shall maintain all landscaping in good condition. (P&Z) (SUP #2001-0071)
17. All waste products, including but not limited to organic compounds (solvents), motor oils, and antifreeze shall be disposed of in accordance with all local, state and federal ordinances or regulations and shall not be discharged into the sanitary or storm sewers. (T&ES) (SUP #2001-0071)
18. **CONDITION AMENDED BY STAFF:** The applicant shall comply with the City of Alexandria Best Management Practices Manual for automotive related industries. A copy can be obtained by contacting the Division of Environmental Quality on 703/519-3400, extension 166. (T&ES) (SUP #2001-0071)
19. The hours of operation shall be limited from 6:00 a.m. to 10:00 p.m. Monday through Saturday and 6:00 a.m. to 9:00 p.m. on Sundays. Repair operations may take place from 8:00 a.m. until 5:00 p.m., Monday through Saturday. (P&Z) (SUP #2001-0071)
20. The applicant shall post the hours of operation at the entrance to the building. (P&Z) (SUP #2001-0071)

21. The applicant shall not sell alcoholic beverages. (P&Z) (SUP #2001-0071)
22. The applicant shall contact the Crime Prevention Unit of the Alexandria Police Department for a security survey and robbery awareness program. (Police) (SUP #2001-0071)
23. The special use permit shall expire in November 2010. (P&Z) (SUP #2001-0071)
24. The provisions of Section 12-214 (B) limiting repairs and improvements shall not apply to this site and building. Improvements and investments shall, however, be consistent with section 12-214 (A)(2), which prohibits expansion or intensification, and with the expiration date in this permit. (P&Z) (SUP #2001-0071)
25. 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 #2001-0071)
26. Staff (Planning and Zoning, and Transportation and Environmental Services) shall work with the applicant to examine the number of curb cuts with a goal towards improving pedestrian and vehicular safety relative to ingress and egress to the gas station. (City Council) (SUP #2001-0071)
27. **CONDITION ADDED BY STAFF:** Loudspeakers shall be prohibited from the exterior of the building. (T&ES)
28. **CONDITION ADDED BY STAFF:** No material shall be disposed of by venting into the atmosphere. (T&ES)
29. **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. (P&Z)

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.

DISCUSSION:

1. The applicant, Mount Vernon Service Center Inc., by Erik J. Dorn, requests special use permit approval for the operation of a gasoline and service station located at 1601 Mount Vernon Avenue.
2. The subject property is one lot of record with approximately 112 feet of frontage on Mount Vernon Avenue, approximately 87 feet of frontage on Monroe Avenue, and a total lot area of approximately 9,744 square feet. The site is developed with an automobile service station.

To the north of the site is an automobile display and storage lot operated by Alexandria Hyundai. To the east is the Burke and Herbert bank. To the west across Mount Vernon Avenue is a Texaco service station. To the south is a shopping center.

3. On September 15, 2001, City Council granted Special Use Permit #2001-0071 for the operation of a nonconforming service station. An automobile service station has been in operation in this location since at least 1941. In 1951, the land was zoned C-2 which allowed a service station with a special use permit. In 1992, the subject property was rezoned from C-2 to CL, and automobile service stations are not permitted in the CL zone. This station never obtained a special use permit as a C-2 use and is therefore considered to be a nonconforming use. Pursuant to Section 12-214 of the zoning ordinance, a special use permit was approved to continue operating the nonconforming business. As specified in condition #23, the special use permit expires in November of 2010.
4. On October 29, 2002, staff visited the subject property to determine if the business was in compliance with the conditions of its special use permit. Staff observed that the applicant was in compliance with most of the conditions and had installed the required landscaping. However, staff found that the trash enclosure required under condition #14 had not been installed, and tires and other materials were accumulating outside, which is prohibited by condition #7. Staff issued a ticket for the violations and docketed the case for hearing. Additionally, the applicant had not had the security survey and robbery awareness program as required in condition #22, but has since scheduled it to be conducted. Staff has not received any complaints about the business.
5. To comply with the requirement for the enclosure, the applicant proposes to install a white vinyl fence to screen the dumpster area located on the north side of the existing building (see attached drawing). A detached storage garage is also located in this area. The proposed vinyl fencing is easily cleaned and according to the applicant, will require less maintenance than a wood fence. The fence is only proposed to be installed along the western border of the dumpster area as the area is already bordered by wood fencing on the north and east sides, and by the existing building on the south side.

6. In regard to condition #26, staff and the applicant have been discussing various ways to improve pedestrian safety at the site. Given the size and configuration of the gas tanks on the site, closing a curb cut does not currently appear feasible. However, when T&ES completes the final phase of the Mount Vernon Avenue undergrounding and streetscaping project (which runs from East Bellefonte Avenue to East Nelson Avenue), it will be installing brick paver sidewalks and cross walks along Mount Vernon Avenue in front of the Exxon to improve pedestrian safety.
7. Zoning: The subject property is located in the CL/Commercial low zone. The CL zone does not permit an automobile service station.
8. Master Plan: The proposed use is not consistent with the Potomac West small area plan chapter of the Master Plan which designates the property for CL/Commercial low uses, and those uses do not include automobile related ones.

STAFF ANALYSIS:

Staff does not object to the continued use of the gasoline and service station located at 1601 Mount Vernon Avenue. The applicant has been working with staff on the proposal for the enclosure and anticipates installation in the near future. Although staff typically requires the installation of a four-sided structure to comply with the requirement for a trash enclosure, the dumpster area in this case is already enclosed on three sides with existing fencing and a wall of the building, and finds that the single fence as proposed by the applicant is sufficient. The fencing will screen the dumpster and additional materials that are currently being stored outside. In addition, staff has received no complaints about the property.

Therefore, 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:

- 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 Loudspeakers shall be prohibited from the exterior of the building, and no amplified sounds shall be audible at the property line.
- R-2 All waste products including, but not limited to organic compounds (solvents), motor oil, compressor lubricant and antifreeze shall be disposed of in accordance with all local, state and federal ordinances or regulations and not be discharged to the sanitary or storm sewers, or be discharged onto the ground.
- R-3 The applicant shall comply with the City of Alexandria Best Management Practices Manual for Automotive Related Industries. A copy can be obtained by contacting the Division of Environmental Quality on 703/519-3400, extension 166.
- R-4 No material shall be disposed of by venting into the atmosphere.

Code Enforcement:

- F-1 No inspections requested by applicant for installation of air conditioning equipment (MEC2002-01864 - 5/15/02). Notice of Violation issued on 10/31/02 to obtain all required inspections. Follow up on 11/7/02.
- F-2 No inspections requested by applicant for demolition of a portion of wall and removal of old built in safe and bathroom door. (BLD2002-01671 - 6/28/02). Notice of Violation issued on 10/31/02 to obtain all required inspections. Follow up on 11/7/02.
- F-3 During 2002, four complaints were received by Code Enforcement for this address. They are as follows:
- CMP2002-00767 on 2/20/02. Parked vehicles on sidewalk. Closed on 2/27/02.

- CMP2002-01900 on 4/26/02. Construction without permits. Stop work order issued on this date.
- CMP2002-02303 on 5/17/02. Notice of Violation issued to renew delinquent Fire Prevention Code permit. Permit renewed. Due to expire in January 2003.
- CMP2002-04461 on 10/7/02. Combustible storage located next to gasoline pumps. Closed on 10/8/02.

C-1 Obtain all required mechanical and building inspections and approvals for outstanding permits BLD2002-01671 and MEC2002-01864.

Health Department:

F-1 No comments.

Police Department:

F-1 To date the applicant has not requested the security survey or robbery awareness program from the Police Department. They may do so by calling the Crime Prevention Unit at 703-838-4520.

VP

APPLICATION for SPECIAL USE PERMIT # 2002-0112

[must use black ink or type]

PROPERTY LOCATION: 1601 MT. VERNON AV

TAX MAP REFERENCE: _____ ZONE: CL

APPLICANT Name: MT. VERNON SERVICE CENTER INC.

Address: _____

PROPERTY OWNER Name: _____

Address: _____

PROPOSED USE: REVIEW OF NONCONFORMING
AUTOMOBILE SERVICE STATION

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.

ERIK J. DORN
Print Name of Applicant or Agent

Signature

Mailing/Street Address

Telephone # Fax #

City and State Zip Code

Date

DO NOT WRITE BELOW THIS LINE - OFFICE USE ONLY

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

ACTION - PLANNING COMMISSION: _____

ACTION - CITY COUNCIL: _____



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**

10-29-2002 Tuesday 11:30
Date ticket served Day of Week Time AM/PM

Location of Violation: 11001 Mt. Vernon Avenue

Ord. Section: 11-505

Description of Violation: Violation to SUP conditions:
#7 No vehicle parts, tires, etc. accumulate outside; &
#14 Applicant shall screen dumpster

Penalty \$: 50

1st 2nd
 3rd/MORE

**IF THE VIOLATION IS NOT CORRECTED BY
11/26/2002 AN ADDITIONAL MONETARY
PENALTY WILL BE ASSESSED.**

Valerie Peterson
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 2001-0071
NOTICE SERVED ON: (COM 2002-0552) *proactive*

NAME: LAST FIRST MIDDLE

PROPERTY OWNER
 COMPANY

NAME

OTHER POSITION

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

Larry Dever
Name of Person or Business Served

11001 Mt. Vernon Ave.
Address of Service

Alexandria, VA 22301
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.

Signature _____
Print Name _____
Date _____ Phone # _____

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

TICKET NO 2730
Z-03
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 _____

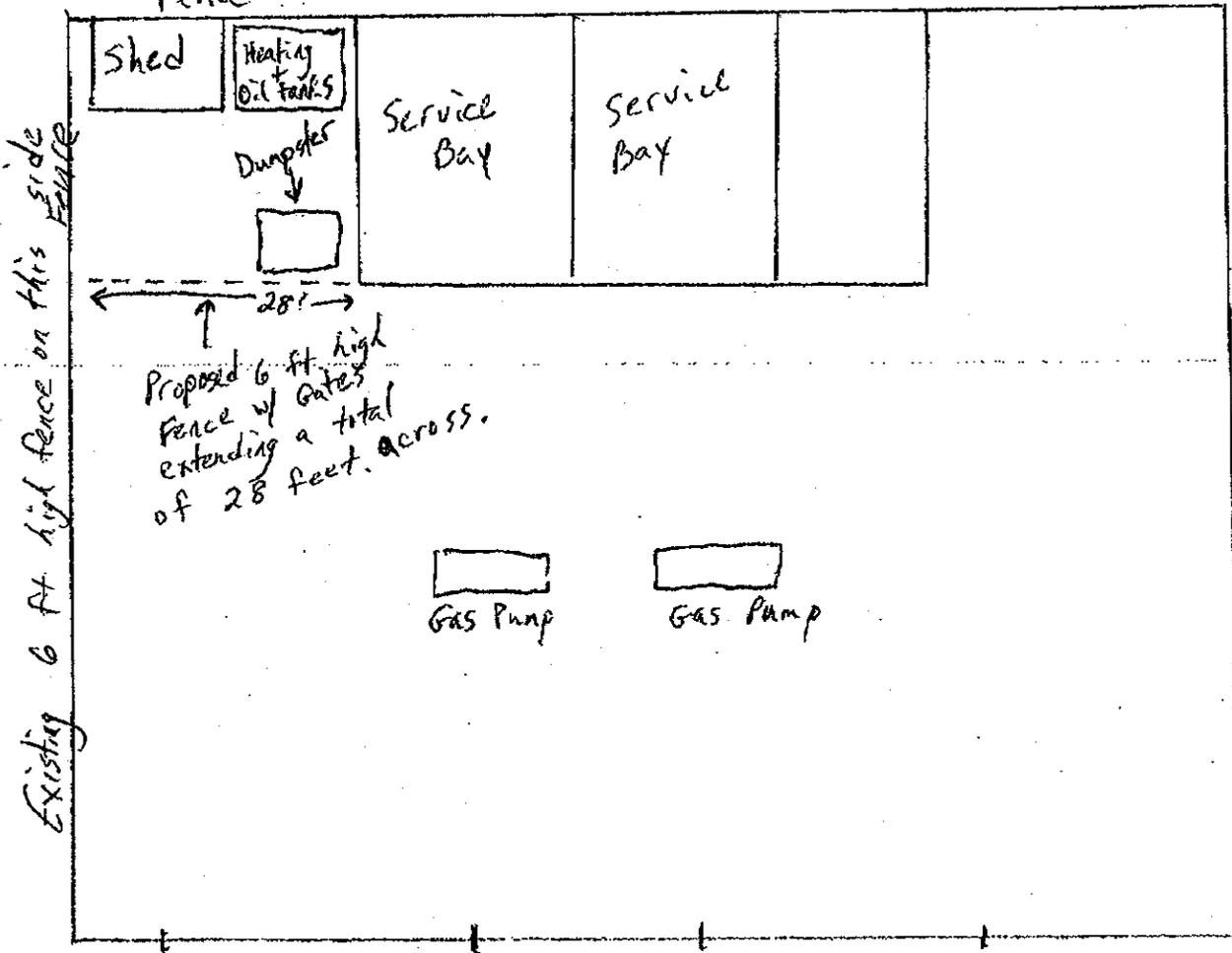
I hereby certify under penalty of law, that I have answered as indicated above, and corrected or made substantial efforts to correct the violation that I have admitted or for which I have pleaded no contest.

Signature _____ Date _____

Mt. Vernon Exxon
1601 Mt. Vernon Ave.

Dumpster will be
completely Fenced in.

EXISTING
Fence



Mt. Vernon Ave

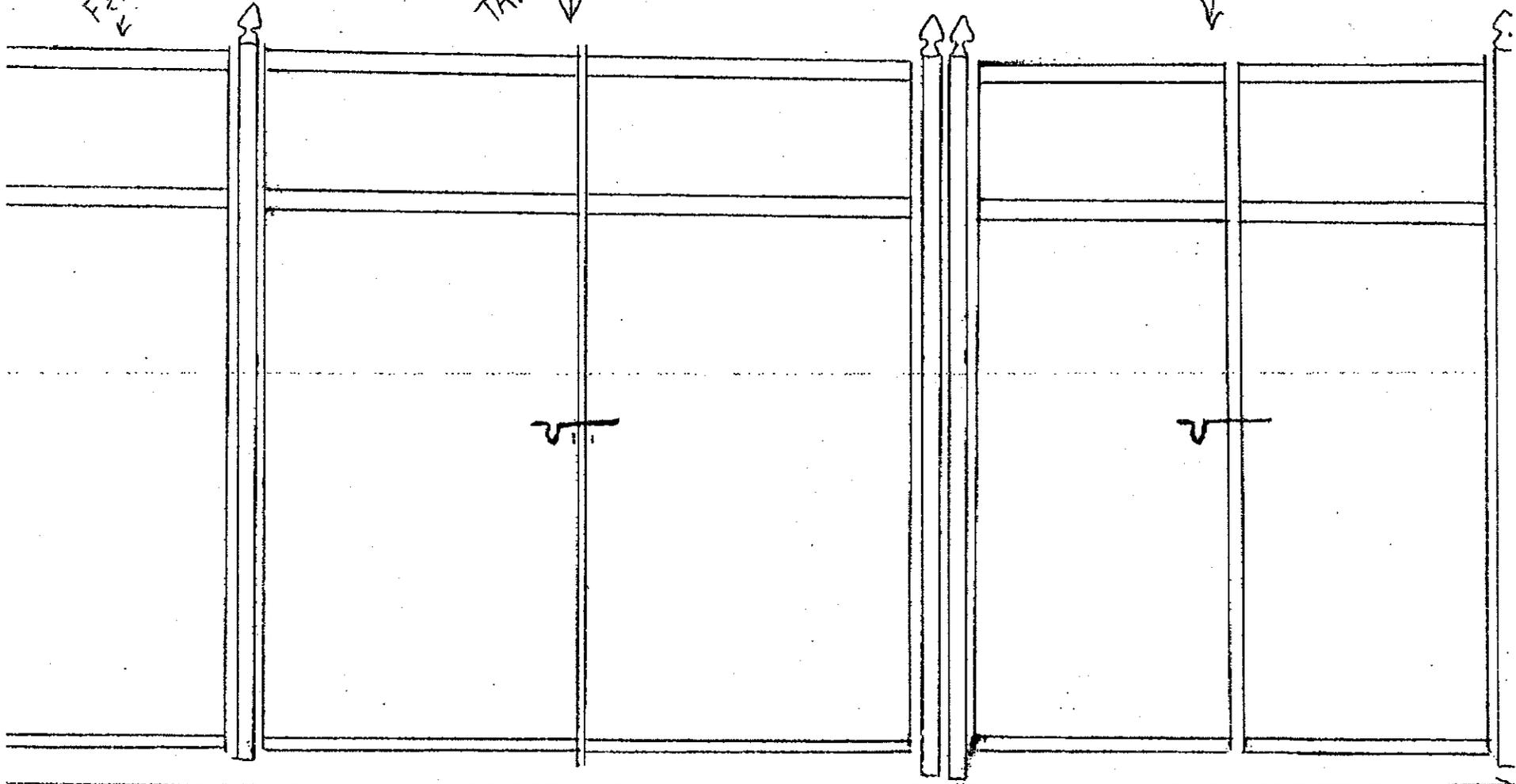
SUP 2002-0112

MT. VERNON EXXON
703-549-0225

Fence
↙

SHED & OIL
TANK
ACCESS
↙

TRASH
DUMPSTER
ACCESS
↙



13

28'

FENCE
Pre-built fencing
White vinyl - look like wood
Wood 4x4 posts, w/covering
4" slats
Fence is
6 feet high

Dumpster is
4 feet high

FRONT EDGE
OF BUILDING

SUP 2002-0112

THE DEL RAY CITIZENS ASSOCIATION

P.O. BOX 2233

ALEXANDRIA, VIRGINIA 22301

ESTABLISHED 1954

To: Honorable Members of City Council
Members of Alexandria Planning Commission
Eileen Fogarty, Director, Office of Planning and Zoning

From: Amy Slack, Land Use Committee Co-Chair
Sarah Haut, Land Use Committee Co-Chair
Rob Krupicka, President

Date: January 2, 2003

Subject: SUP#2002-0112, 1601 Mt Vernon Ave, SUP review for the existing nonconforming automobile service station

The DRCA Land Use Committee discussed the referenced SUP with the applicant at its December 10, 2002 meeting. The SUP is under review due to violations found during a recent inspection.

This location has been used for an automobile service station since 1941. The property was purchased by Mt. Vernon Service Center, Inc more than a year ago. In September 2001, the City Planning Commission and City Council approved the SUP subject to compliance with applicable codes, ordinances, and 26 staff recommendations.

A one-year review of the SUP by city staff found that the applicant had failed to provide screening or an enclosure for the dumpster. Additionally, city staff found that the applicant was piling debris and tires adjacent to the dumpster creating an unsightly condition. The city issued violations against the applicant and the SUP must be reconsidered by the Planning Commission and the City Council.

The applicant stated that he is working with the city to resolve the violations identified by city staff. He plans to install fencing to screen the area where debris and tires are stored. He has purchased the fencing and is waiting for approval from the city to install it.

The applicant and committee members discussed the possibility of making the curb cuts on Monroe and Mt. Vernon Avenues smaller in an effort to make the property safer for traffic. It doesn't appear that smaller curb cuts are possible due to the need for gasoline delivery truck access. The Land Use Committee suggested that the curb cuts be repainted in an effort to help vehicles better navigate entry and exit of the property.

The applicant has nine parking spaces that are used for customer parking and also for the storage of cars that have been serviced and are awaiting pickup. Two of the spaces are adjacent to the sidewalk on Mt. Vernon Avenue. Occasionally, cars are parked so that

they impede the sidewalk. Committee members suggested that the parking spaces be striped to encourage patrons to park so that they do not block the sidewalk.

The DRCA Land Use Committee feels that it is important for automobile-related businesses on the avenue to store all vehicles on site and not on the street. The applicant conscientiously stores service vehicles on his property instead of on the street and should be applauded for doing so. The applicant has satisfied 25 of the 26 conditions in his original SUP. He has installed landscaping where possible making the service station and Mt. Vernon Avenue more attractive.

The Land Use Committee and DRCA Executive Board voted unanimously in support of this SUP with the following conditions:

- That he install the fencing as designated by city staff
- That he stripe the parking spaces to help ameliorate the problem of cars parking partially on the sidewalk.
- That he repaint the curb cut lines to help vehicles better navigate entry and exit of the property.

We request your support for this position and welcome your questions and comments. Please feel free to contact Co-chairs Amy Slack at 703-549-3412 or Sarah Haut at 703-838-9060, and President Rob Krupicka at 703-838-0280.

APPLICATION for SPECIAL USE PERMIT # 2002-0112

[must use black ink or type]

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ERIK J. DORN
Print Name of Applicant or Agent

Signature

Mailing/Street Address

Telephone #

Fax #

City and State

Zip Code

Date

DO NOT WRITE BELOW THIS LINE - OFFICE USE ONLY

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

ACTION - PLANNING COMMISSION: 01/07/03 RECOMMEND APPROVAL 7-0

ACTION - CITY COUNCIL: 01/25/03PH--CC approved the Planning Commission recommendation.