

EXHIBIT NO. 1

8

6-14-03

Docket Item #9  
SPECIAL USE PERMIT #2003-0042

Planning Commission Meeting  
June 3, 2003

**ISSUE:** Consideration of a request for a special use permit to operate a restaurant.

**APPLICANT:** Bread and Chocolate  
by Ernest Moser

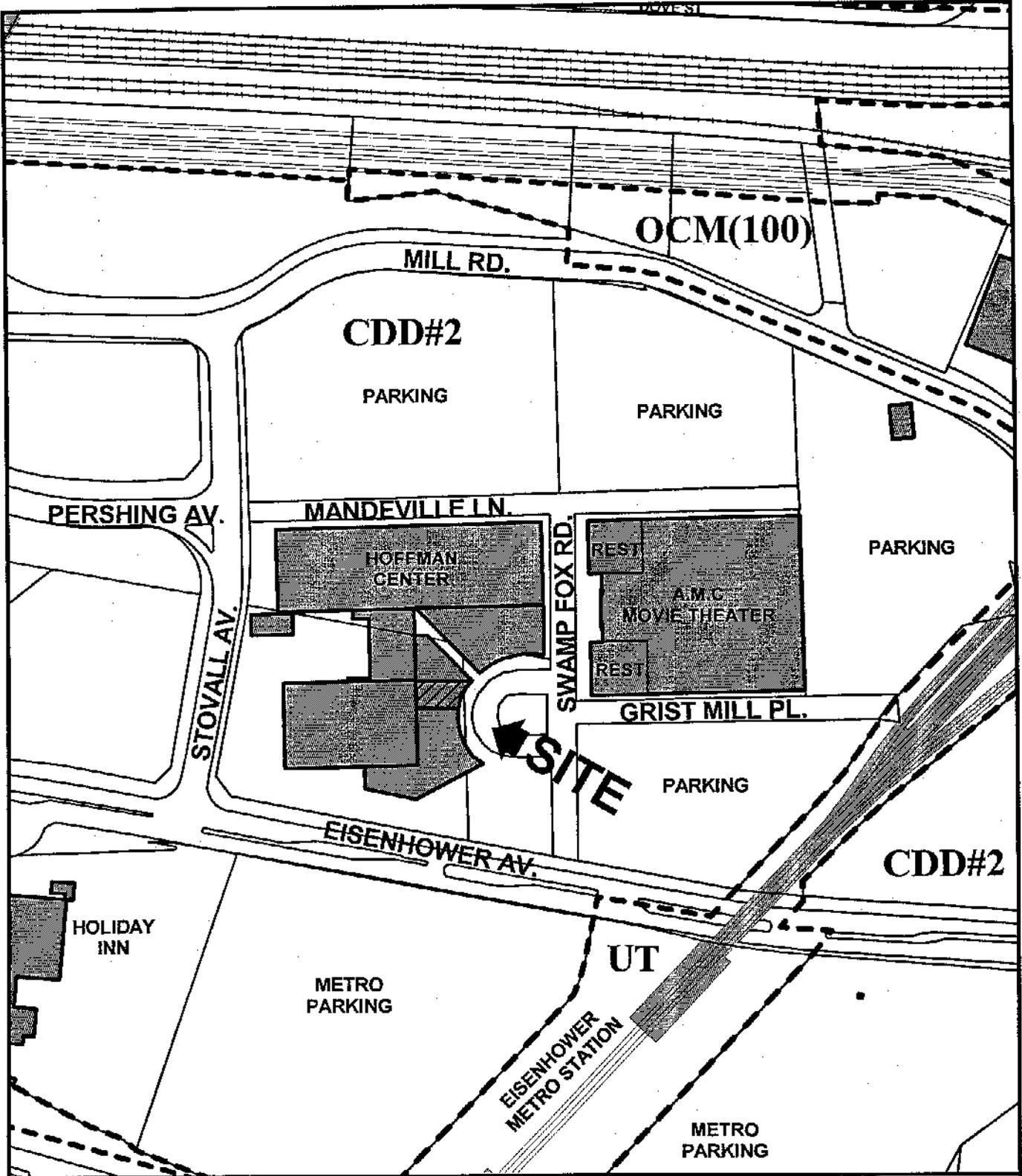
**LOCATION:** 235 Swamp Fox Road

**ZONE:** CDD-2/Coordinated Development District

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**PLANNING COMMISSION ACTION, JUNE 3, 2003:** 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 #2003-0042**

**06/03/03**



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)
2. The hours of operation shall be limited to 7:00 a.m. to 11:00 p.m. Monday through Saturday, and 8:00 a.m. to 8:00 p.m. on Sunday. (P&Z)
3. Outside dining may be provided subject to a plan that is reviewed and approved by the Director of Planning and Zoning. The applicant shall ensure that pedestrian access is provided adjacent to the outdoor seating. The outdoor seating area shall be cleaned and washed at the close of each day of operation. No seating shall encroach on a public right-of-way. (P&Z)
4. Seating shall be provided for no more than 80 patrons indoors, and no more than 16 patrons outdoors. (P&Z)
5. No live entertainment shall be provided at the restaurant. (P&Z)
6. The applicant shall post the hours of operation at the entrance to the restaurant. (P&Z)
7. Alcoholic beverages shall be sold for on-premises consumption only. (P&Z)
8. No food, beverages, or other material shall be stored outside. (P&Z)
9. 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)
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. (P&Z)

11. Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers. (T&ES)
12. **CONDITION AMENDED BY STAFF:** The applicant shall control cooking odors ~~and smoke, and any other air pollution from operations at the site and from the property~~ to prevent them from leaving the property or becoming a nuisance to neighboring properties, as determined by the Department of Transportation & Environmental Services. (T&ES)
13. All loudspeakers or musicians shall be prohibited outside the restaurant. No amplified sound shall be audible at the property line. (T&ES) (P&Z)
14. 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)
15. The applicant shall require their employees who drive to work to use off-street parking. (P&Z)
16. The applicant shall conduct employee training sessions on an ongoing basis, including as part of any employee orientation, to discuss all SUP provisions. (P&Z)
17. The applicant is to contact the Crime Prevention Unit of the Alexandria Police Department at 703-838-4520 regarding a security survey for the business and a robbery awareness program for all employees. (Police)
18. 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)

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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, Ernst Moser, requests special use permit approval for the operation of a restaurant located at 235 Swamp Fox Road.
2. The subject property is part of what is known as the Hoffman Town Center and is developed with the Hoffman office buildings (Hoffman I and II), with one story retail and restaurant space that wraps around the south and east sides of the buildings, and a crescent-shaped pedestrian plaza oriented toward Swamp Fox Road. The subject tenant proposes to occupy 2,000 square feet in the northernmost retail space along the pedestrian plaza at the east side of the property. Most of the remaining retail space is vacant, however, there is a barber shop and dry cleaning business near the subject tenant space at the north side of the building.

Surrounding uses include Ruby Tuesday's, movie theaters, and surface parking located across the street, and offices in the immediate vicinity. A Metrorail station is located southeast of the subject property.

3. The applicant requests special use permit approval to operate a restaurant ("Bread and Chocolate") with 80 seats. The hours of operation will be 7:00 a.m. to 11:00 p.m. Monday through Saturday, and 8:00 a.m. to 8:00 p.m. on Sunday. The bakery café sells pastries, cakes, and breads as retail, and offers breakfast, lunch, and light dinner. Food items will include omelettes, salads, sandwiches, quiche, and roast chicken. On-premise wine and beer will be offered. The applicant anticipates 150 to 200 patrons daily. The applicant anticipates up to 12 employees working during peak hours.
4. On June 13, 1998, City Council granted Special Use Permit #98-0042, with site plan, to construct a theater with retail and restaurant uses, including the pedestrian plaza where the subject tenant space is located. Condition #2 of that special use permit states that each restaurant is required to obtain a separate special use permit for operation. On October 14, 2000, City Council approved DSUP #2000-0028 amending SUP#98-0042 to add an office building and parking garage on existing surface parking behind the movie theaters, and add facade details for the subject property.
5. Pursuant to Section 8-200 of the zoning ordinance, the proposed restaurant is required to provide 20 spaces; one space for every four seats. Parking requirements for the subject restaurant space were analyzed and met under the special use permit approved in 1998 for the theater building and pedestrian plaza area at the Hoffman office buildings (SUP#98-0042).

The parking requirement for the theater, retail and restaurant uses is 1,741 parking spaces. The office buildings (Hoffman I and II) require 1,523 parking spaces. The total parking

requirement is 3,761 parking spaces. There are currently 2,724 spaces, 540 fewer than required. This reduced number of parking spaces should, however, suffice since the theater and office uses have different peak usage times and can share parking. When the second phase of the project is completed, a 3,000 space parking garage will replace most of the surface spaces.

6. The applicant does not expect much odor as food preparation will occur at another site.
7. The applicant anticipates three to five trash bags each day. Trash is collected daily from the shared dumpster on the property.
8. Zoning: The subject property is located in the CDD-2/Coordinated Development District, Eisenhower Avenue zone. Section 5-600 of the zoning ordinance states that the OC (Office Commercial) zoning regulations apply with exceptions in the CDD-2 zone. Section 4-800 of the zoning ordinance states that a restaurant is allowed only in the OC zone with a special use permit.
9. Master Plan: The proposed use is consistent with the King Street/Eisenhower Avenue Small Area Plan chapter of the Master Plan which designates the property for CDD-2/Coordinated Development District, Eisenhower Avenue zone.

#### STAFF ANALYSIS:

Staff supports the proposed restaurant located at 235 Swamp Fox Road. Restaurant uses were part of the original development concept and are supported today by staff. The proposed restaurant is compatible with the nearby theater and office uses. It will provide a convenient eatery for daytime office users, but also attract more people to the area during the evening, creating a more lively, active environment. The proposed restaurant is consistent with the East Eisenhower Small Area Plan which envisions a vibrant mix of retail and restaurant uses in a new town center approach at Hoffman.

Although the applicant has not requested permission for outdoor seating, staff supports opportunities for outdoor dining at this location because it provides an amenity and creates a positive element of activity and interest for the restaurant's office and commercial neighbors. Staff recommends that the applicant be permitted to offer outdoor dining so long as a plan for the seating is reviewed and approved by the Director of Planning and Zoning, pedestrian access is provided adjacent to the seating, and the seating does not encroach on a public right-of-way.

Staff recommends a one year review to ensure that the business maintains compliance with the SUP conditions.

With these conditions, staff recommends approval of the special use permit.

STAFF: Eileen 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:

- 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 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 and Environmental Services.
- R-3 No amplified sound shall not be audible at the property line.
- 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.

Code Enforcement:

- C-1 Alterations to the existing structure must comply with the current edition of the Uniform Statewide Building Code (USBC).
- C-2 A fire prevention code permit is required for the proposed operation. An egress plan showing fixture location, aisles and exit doors shall be submitted for review with the permit application.
- C-3 Alterations to the existing structure and/or installation and/or altering of equipment therein requires a building permit. Four sets of plans, bearing the signature and seal of a design professional registered in the Commonwealth of Virginia, must accompany the written application. The plans must include all dimensions, construction alterations details, kitchen equipment, electrical, plumbing, and mechanical layouts and schematics.
- C-4 This structure contains mixed use groups and is subject to the mixed use and occupancy requirements of USBC [313.0.

- C-5 Required exits, parking, and accessibility for persons with disabilities must be provided to the building.
- C-6 The following code requirements apply where food preparation results in the development of grease laden vapors:
- (a) All cooking surfaces, kitchen exhaust systems, grease removal devices and hoods are required to be protected with an approved automatic fire suppression system.
  - (b) A grease interceptor is required where there is drainage from fixtures and equipment with grease-laden waste located in food preparation areas of restaurants. Food waste grinders can not discharge to the building drainage system through a grease interceptor.
- C-7 A rodent control plan shall be submitted to this office for review and approval prior to occupancy. This plan shall consist of the following:
- (a) Measures to be taken to control the placement of litter on site and the trash storage and pickup schedule.
  - (b) How food stuffs will be stored on site.
  - (c) Rodent baiting plan.

Health Department:

- F-1 An Alexandria Health Department Permit is required for all regulated facilities.
- 1) Five sets of plans are to 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.
  - 2) Permits must be obtained prior to operation.
  - 3) This facility must comply with the Alexandria City Code, Title 11, Chapter 10, Smoking Prohibitions.
  - 4) Certified Food Managers must be on duty during all hours of operation.
  - 5) Provide a menu or list of foods to be handled at this facility to the Health Department prior to opening.

Police Department:

- R-1 The applicant is to contact the Crime Prevention Unit of the Alexandria Police Department at 703-838-4520 regarding a security survey for the business.

- R-2 The applicant is to contact the Crime Prevention Unit of the Alexandria Police Department at 703-838-4520 regarding a robbery awareness program for all employees.
- R-3 Recommend "ABC On" license only. If "ABC Of" is approved we recommend the following conditions:
1. Beer or wine coolers may be sold only in 4-packs, 6-packs or bottles of more than 40 fluid ounces. Wine may be sold only in bottles of at least 750 ml or 25.4 ounces. Fortified wine (wine with an alcohol content of 14% or more by volume) may not be sold.
  2. That the SUP is reviewed after one year.

APPLICATION for SPECIAL USE PERMIT # 2003-0042

[must use black ink or type]

PROPERTY LOCATION: HOFFMAN CENTER  
235 SWAMP FOX

TAX MAP REFERENCE: 72.0-03-15 DB1516 <sup>760557</sup> ZONE: CDD #2

APPLICANT Name: BREAD + CHOCOLATE INC.

Address: 235 SWAMP FOX

PROPERTY OWNER Name: HOFFMAN BUILDINGS L.P.

Address: 2461 EISENHOWER AV.

PROPOSED USE: RESTAURANT - BAKERY

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.

ERINSTE MOSEK  
Print Name of Applicant or Agent

  
Signature

1033 W. GLEBE RD  
Mailing/Street Address

703 565 7524 703 565 0559  
Telephone # Fax #

ALEXANDRIA VA 22305  
City and State Zip Code

4/12/03  
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.

THEODORE MANOUSAKIS 1/3  
ERNST MOSEK 1/3  
TINA MANOUSAKIS (TRUST) 1/3

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 8 1/2" 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**

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)

BREAD CHOCOLATE IS A BAKERY CAFÉ,  
SELLING PASTRIES, CAKES AND BREAD  
RETAIL. IN THE CAFÉ WE SERVE  
BREAKFAST, LUNCH AND LIGHT DINNER  
WITH FULL CAFÉ SERVICE LIKE: ESPRESSO,  
CAPPUCCINO, MOCHA ETC.  
WE WILL SEAT ABOUT 80 PERSONS AND  
AT PEAK TIMES WILL HAVE UP TO  
12 EMPLOYEES.  
WINE AND BEER WILL BE OFFERED  
AT THE CAFÉ.  
WE PLAN TO PROVIDE BACKGROUND  
MUSIC LIKE JAZZ OR C.D.  
TRADITIONALLY WE CATER TO PROFESSIONALS  
AND FAMILY CUSTOMERS.

**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).

150-200 DAILY

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

7<sup>AM</sup> - 11<sup>AM</sup> 5-6 3<sup>PM</sup> - 11<sup>PM</sup> 6-12  
11<sup>AM</sup> - 3<sup>PM</sup> 6-12

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

Day:

Hours:

Monday - Saturday

7<sup>AM</sup> - 11<sup>PM</sup>

SUNDAY

8<sup>AM</sup> - 8<sup>PM</sup>

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

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

VERY LITTLE PREOPERATION NOISE

NORMAL RESTAURANT NOISE

B. How will the noise from patrons be controlled?

NOT A PROBLEM IN BREWERY CHOCOLATE  
OPERATIONS.  
IN EMERGENCY MANAGER WILL CONTROL.

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

NORMAL CASE ODORS.  
FOOD PREPARATION IS AT 1035 W. GLEBE  
RD AND DAILY DELIVERED.

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?

PAPER, LETTIVES, GLASS

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

3-5 BAGS

C. How often will trash be collected?

DAILY MONDAY - SATURDAY

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

WE HAVE SERVERS. TRASH RECEPTICLES ARE  
PLACED BY TRANT DMR.

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:

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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:

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

Manager on duty from opening to closing  
Alarm Service.

**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.

ON PREMISE SALE OF APPROX 5 WHITE WINES  
AND 5 RED WINES

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**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?

PARKING LOT

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

\_\_\_\_\_ 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:

ACCESS

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? IN FRONT OF STORE

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

6-7 AM

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

1 Per DAY

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?

ACCESS IS 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?

2000 sq. ft. (existing) + \_\_\_\_\_ sq. ft. (addition if any) = 2000 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: HOFFMAN BUILDING

other, please describe: \_\_\_\_\_

**RESTAURANT SUPPLEMENTAL APPLICATION**

All applicants requesting special use permit approval for restaurants shall complete the following section. Applicants requesting approval of a special use permit for a restaurant in Old Town shall complete the SUPPLEMENTAL INFORMATION FOR RESTAURANTS IN OLD TOWN section and submit the required parking management plan and litter reduction plan.

Please provide the following information:

1. How many seats are proposed?

At tables: 70 At a bar: 10 Total number proposed: 80

2. Will the restaurant offer any of the following?

alcoholic beverages  beer and wine (on-premises)  
 beer and wine (off-premises)

3. Please describe the type of food that will be served:

MUFFINS, OMELETTES, SALADS, SANDWICHES  
LIGHT ENTREES LIKE QUICHE, TOAST CHICKEN.  
PASTRIES AND CAKES.

4. The restaurant will offer the following service (check items that apply):

table service  bar  carry-out  delivery

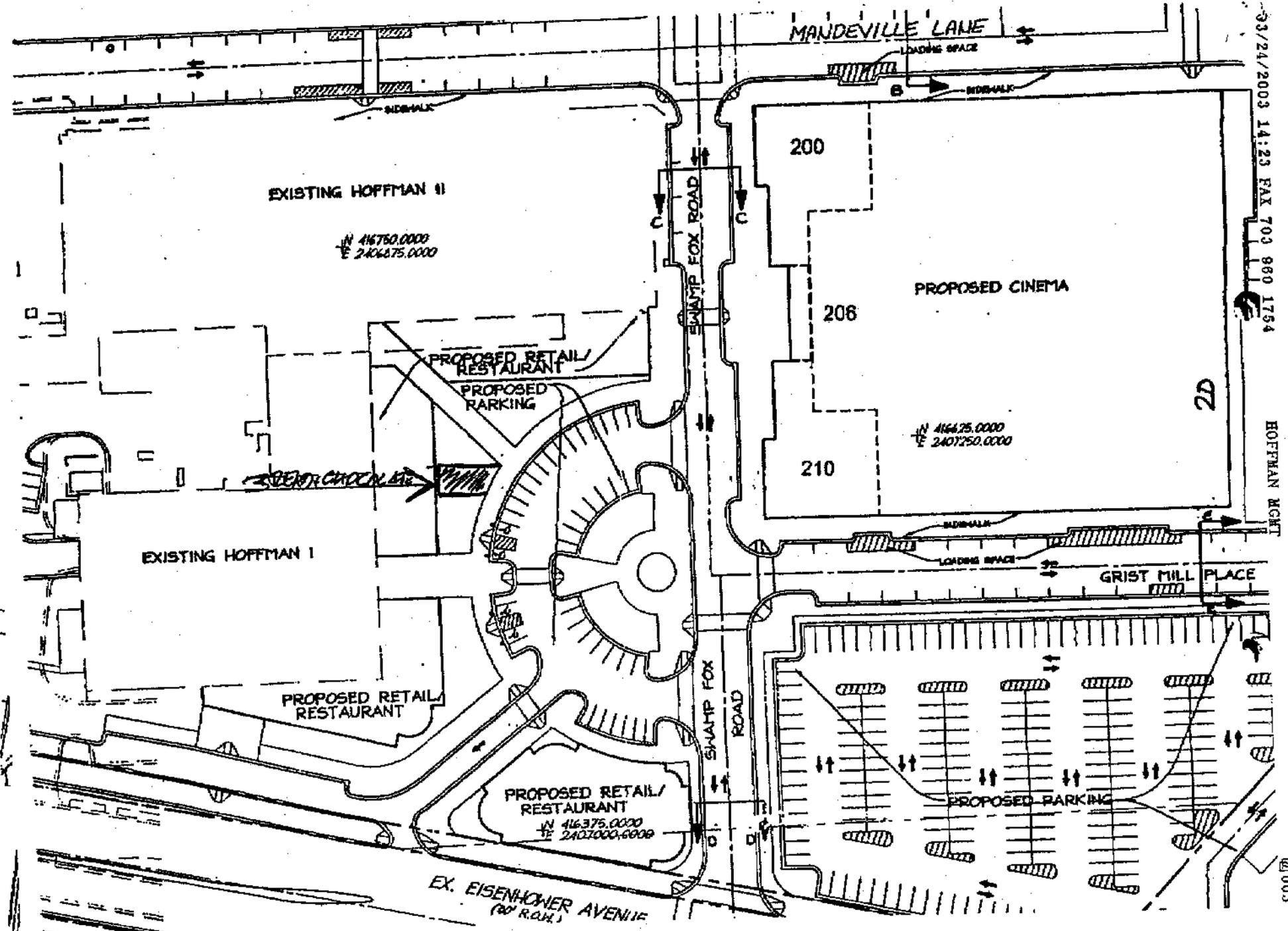
5. If delivery service is proposed, how many vehicles do you anticipate? \_\_\_\_\_

Will delivery drivers use their own vehicles?  Yes.  No.

6. Will the restaurant offer any entertainment (i.e. live entertainment, large screen television, video games)?  Yes.  No.

If yes, please describe: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

SUP 2003-0042



03/24/2003 14:23 FAX 703 960 1754

HOFFMAN RIGHT

10/00/03











APPLICATION for SPECIAL USE PERMIT # 2003-0042 <sup>8</sup>

[must use black ink or type]

HOFFMAN CENTER

PROPERTY LOCATION: 235 SWAMP FOX

TAX MAP REFERENCE: 72.0-03-15 DB1566 <sup>760557</sup> ZONE: CDD #2

APPLICANT Name: BREAD + CHOCOLATE INC.

Address: 235 SWAMP FOX

PROPERTY OWNER Name: HOFFMAN BUILDINGS L.P.

Address: 2461 EISENHOWER AV

PROPOSED USE: RESTAURANT - BAKERY

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ERNST MOJER  
Print Name of Applicant or Agent

  
Signature

1033 W. GLEBE RD  
Mailing/Street Address

703 545 7524 703 545 0559  
Telephone # Fax #

ALEXANDRIA VA 22305  
City and State Zip Code

4/12/03  
Date

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

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

ACTION - PLANNING COMMISSION: RECOMMEND APPROVAL UC

ACTION - CITY COUNCIL: 6/14/03PH--CC approved the Planning Commission recommendation. (SEPARATE MOTION)