

EXHIBIT NO. 1

Docket Item # 8  
SPECIAL USE PERMIT #2002-0058

6  
9-14-02

Planning Commission Meeting  
September 3, 2002

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

**APPLICANT:** Julio Irazabal  
by Fernando Irazabal

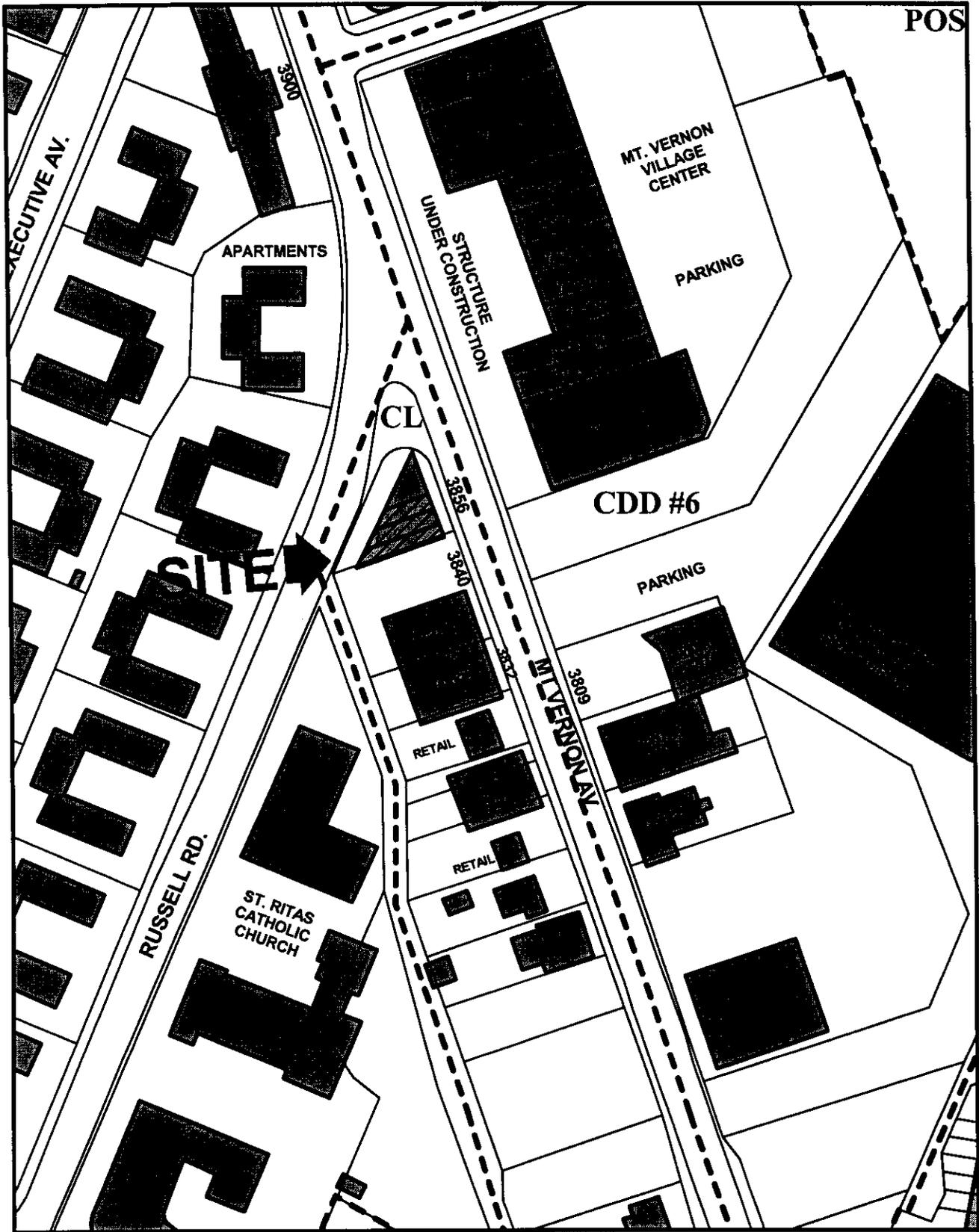
**LOCATION:** 3856 Mt. Vernon Avenue  
La Feria Del Pescado Restaurant

**ZONE:** CL/Commercial Low

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**PLANNING COMMISSION ACTION, SEPTEMBER 3, 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.



POS



**SUP #2002-0058**

**09/03/02**



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 corporation or entity in which the applicant has a controlling interest. (P&Z) (SUP 94-0342)
2. **CONDITION AMENDED BY STAFF:** The hours of operation of the ~~carry-out~~ restaurant shall be limited to between ~~9:00~~ 6:00 AM and ~~9:00 PM~~ 12:00 AM, seven days a week. (P&Z)~~(SUP 94-0342)~~
3. **CONDITION AMENDED BY STAFF:** No more than 44 seats shall be provided at the restaurant, with no more than 20 of the 44 total seats to be used as outdoor seating. ~~No seats shall be provided for patrons.~~ (P&Z)~~(SUP 94-0342)~~ (P&Z)
4. No food, beverages, or other material shall be stored outside. (P&Z) (SUP 94-0342)
5. **CONDITION AMENDED BY STAFF:** Trash and garbage shall be ~~stored inside or in a dumpster 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 94-0342) (P&Z)~~
6. **CONDITION DELETED BY STAFF:** ~~At least one trash container shall be located in the parking area for the use of patrons, the container shall not be permitted to overflow, and the area around it shall be kept clean.~~ (P&Z) (SUP 94-0342)
7. Litter on the site and on the public right of way and spaces adjacent to or within 75 feet of the premises shall be picked up twice a day, 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)(SUP 94-0342)
8. **CONDITION DELETED BY STAFF:** ~~Trash and garbage shall be collected every day that service is available.~~ (P&Z) (SUP 94-0342)
9. **CONDITION AMENDED BY STAFF:** The applicant shall post the hours of operation ~~of the carry-out~~ at the entrance to the ~~business~~ restaurant. (P&Z)~~(SUP 95-0146)~~

10. **CONDITION DELETED BY STAFF:** ~~No single containers of beer (40 ounces or less in size) and no fortified wines (any wine with alcohol content of 14 percent or greater) shall be sold. Chilled beer may be sold in six-packs or eight-packs and no more than one six-pack or eight-pack may be sold to any one customer at a time. Additional sales of beer to the same customer may not be chilled. (P&Z) (Police) (SUP-95-0146)~~
11. Kitchen equipment shall not be cleaned outside, nor shall any cooking residues be washed into the streets, alleys or storm sewers. (T&ES) (SUP 94-0342)
12. **CONDITION AMENDED BY STAFF:** The Director of Planning and Zoning shall review the special use permit one year after the use becomes operational 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)
13. **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)
14. **CONDITION ADDED BY STAFF:** The applicant shall require that employees who drive to work use off-street parking. (P&Z)
15. **CONDITION ADDED BY STAFF:** 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. (T&ES)
16. **CONDITION ADDED BY STAFF:** Loudspeakers shall be prohibited from the exterior of the building, and no amplified sounds shall be audible at the property line. (T&ES)
17. **CONDITION ADDED BY STAFF:** The applicant shall, at his expense, replace the existing street trash receptacle with a city standard Bethesda Series Model SD-42. (T&ES)

18. **CONDITION ADDED BY STAFF:** The applicant shall post at the entrance of the restaurant the location of available off-street parking which includes the parking lot to the south of the restaurant and the parking spaces along Russell Road. (P&Z)
19. **CONDITION ADDED BY STAFF:** The applicant shall contact the Crime Prevention Unit of the Alexandria Police Department for a security survey for the business before the business opens. (Police)
20. **CONDITION ADDED BY STAFF:** On-site alcohol service is permitted; no off-premise alcohol sales are permitted. (P&Z)
21. **CONDITION ADDED BY STAFF:** The outdoor seating area shall be limited to an area 10 feet deep in front of the restaurant. (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, Julio Irazabal, requests special use permit approval for the expansion of a restaurant at 3856 Mount Vernon Avenue.
2. The subject property is one lot of record at the corner of Mount Vernon Avenue and Russell Road. It is a triangular shaped property that has approximately 63 feet of frontage on Mount Vernon Avenue, 107 feet of frontage on Russell Road, and a depth of 115 feet, for a total of approximately 6,470 square feet. The property is developed with a two-story building on the corner where the Waffle Shop is currently located, and has a single story commercial building attached which currently contains three tenant spaces. This application concerns the storefront immediately south of the Waffle Shop. There is a parking lot to the south of the building and some parking at the rear of the building, on the Russell Road frontage.
3. On March 23, 1996, City Council granted Special Use Permit #95-0146 for the operation of a carry-out restaurant without seats. The applicant is proposing to expand the carry-out to a full service restaurant, expanding into the adjacent tenant spaces recently vacated by a dry cleaners. The restaurant will offer 44 seats and proposes that 20 of those seats be outdoor seating during good weather.
4. The restaurant will offer Latin American foods and homemade tortillas, breads, and other baked goods. The hours of operation are proposed to be 6:00 a.m. to 12:00 a.m. daily. There will be no more than three to six employees on the premises at any one time.
5. On January 3, 2002, staff inspected the restaurant and observed seating, a violation of the current special use permit. The applicant removed the seating to comply with the special use permit and filed this application because of his desire to expand the business.
6. Under Section 8-200 (A) (8) of the zoning ordinance a restaurant with 44 seats is required to have 11 parking spaces. In this case, the subject property has two parking areas with a total of 23 spaces. These spaces are shared with the other tenants of the shopping center including a small market, a jewelry store, and the Waffle Shop restaurant. The Waffle Shop was built in 1940 and has been operating continuously since. The other two tenant spaces have been operating continuously as retail spaces since the 1950s. Because these uses existed prior to 1963, they continue to be grandfathered as to current parking requirements. The applicant is therefore able to accommodate his 11 required parking spaces on the site.

7. Loading and unloading are expected to occur between the hours of 8:00 a.m. and 4:00 p.m. Monday to Saturday approximately two to five times per day. The loading will take place in the existing loading area of the applicant's supermarket located in the adjacent building just south of the parking area along Mount Vernon Avenue.
8. The applicant anticipates three to five trash cans per day. Trash will be collected six days a week. Employees will patrol premises for potential litter. There is a City trash can located in front of the existing carry-out.
9. The applicant will not be serving alcohol, but may at some time in the future wish to provide on-premise alcohol service.
10. 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.
11. 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 proposed expansion of the restaurant located at 3856 Mount Vernon Avenue. The proposal is an expansion of an existing neighborhood serving business which is consistent with the vision of the Arlandria Work Group, a group of residents and business owners who have been working with City staff to resolve existing quality of life issues, such as litter and pedestrian safety, and to develop a long range vision for Mount Vernon Avenue. Members of the Work Group strongly support the existing diversity of businesses and encourage successful businesses to expand. The proposed outdoor seating also promotes the goals of the Work Group by creating an active pedestrian street along Mount Vernon Avenue.

Although the restaurant meets the technical parking requirement for the use, staff is concerned about the potential for parking congestion in the area. However, as part of the on-going planning process in Arlandria, approximately 40 new parking spaces will be created along Mount Vernon Avenue between West Glebe Road and Four Mile Run helping to alleviate parking congestion in the area as well as the subject site. In addition, the applicant informed staff that many of his customers walk from surrounding residential neighborhoods, and he anticipates the same for the proposed restaurant. Staff has included a condition requiring the applicant to post signs at the front of the restaurant that identify the location of available off-street parking areas, which include the lot south of the restaurant and the spaces along Russell Road, to inform patrons of parking availability.

Staff deleted the condition related to the regulation of off-premise alcohol sales because the restaurant will no longer operate as a market and the applicant is not proposing to offer off-premise alcohol sales at the restaurant. Although the applicant does not have immediate plans to offer on site alcohol sales, staff included the standard condition allowing on site alcohol sales in the event that the applicant chooses to do so in the future.

With these conditions, 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.
- F-1 T&ES believes this operation will not have a significant impact on available on street parking and has no objections to the parking reduction request.
- 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.
- R-3 Loudspeakers shall be prohibited from the exterior of the building, and no amplified sounds shall be audible at the property line.
- R-4 The applicant shall, at their expense, replace the existing street trash receptacle with a city standard Bethesda Series Model SD-42.

Code Enforcement:

- C-1 Alterations to the existing structure must comply with the current edition of the Uniform Statewide Building Code (USBC).
- C-2 The current use is classified as mercantile; the proposed use is assembly. Change of use, in whole or in part, will require a certificate of use and occupancy (USBC 115.4) and compliance with USBC 118.2. including but not limited to: limitations of exit travel distance, emergency and exit lighting, a manual fire alarm system, and accessibility for persons with disabilities.

- C-3 Prior to the issuance of a demolition permit or land disturbance permit, a rodent abatement plan shall be submitted to Code Enforcement that will outline the steps that will taken to prevent the spread of rodents from the construction site to the surrounding community and sewers.
- C-4 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-5 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-6 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:

- C-1 An Alexandria Health Department Permit is required for all regulated facilities. This facility is currently operating as La Feria del Pescado under health permit #16F-365-1 issued to Julio and Rosario Irazabal.
- C-2 Food must be protected to the point of service.

- C-3 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-4 Permits or approval must be obtained prior to use of the new area(s).
- C-5 This facility must comply with the Alexandria City Code, Title 11, Chapter 10, Smoking Prohibitions both indoors and at the outside dining areas.
- C-6 Certified Food Managers must be on duty during all hours of operation.
- C-7 Provide a menu or list of foods to be handled at this facility to the Health Department prior to opening.
- C-8 Adequate restroom facilities must be provided for the patrons and must be accessible without passing through food prep areas.

Police Department:

- R-1 Security survey for the business.
- R-2 Robbery awareness program for all employees.
- R-3 Recommend "A.B.C. On" license only. If "A.B.C. Off" 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.

VP  
APPLICATION for SPECIAL USE PERMIT # 2002-0058

[must use black ink or type]

PROPERTY LOCATION: 3856 MT VERNON AVE

TAX MAP REFERENCE: 0.7.00 BLOCK-8-1 ZONE: CL

APPLICANT Name: JULIO + IRAZABAL

Address: 3840 MT VERNON AVE ALEX VA 22305

PROPERTY OWNER Name: JOE HELLER

Address: 16010 INDUSTRIAL DR GAITHERSBURG MD 2206

PROPOSED USE: Existing CARRY out BAKERY

Needs to ~~be~~ HAVE TABLES inside outside

(prev. 94-0342)  
& prev. 95-0146

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.

FERNANDO IRAZABAL  
Print Name of Applicant or Agent

[Signature]  
Signature

3840 MT VERNON AVE  
Mailing/Street Address

703 836 5959 703 683 8856  
Telephone # Fax #

Alex VA 22305  
City and State Zip Code

6/18/02  
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.

JULIO IRAZABAL  
3840 RT VERNON AVE ALEX VA 22305  
100% ownership

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**

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)

RESTAURANT WITH 6 TABLES inside and  
15 TABLES outside. I will HAVE Between  
10 to 50 PATRONS a DAY. AT ANY given time  
will HAVE 3 to 6 employees. THE HOURS of  
operations will be FROM 6:00 AM to 12:00 AM <sup>MIDNIGHT</sup>  
All work will be done inside the premises  
I will HAVE ~~11~~ parking spaces AT THE location

**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).

From 6:00 AM to 12:00 PM and ~~10:00~~  
10-60 clients.

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

From 6:00 AM to 12:00 PM and 3-6  
employees.

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

Day: 7 DAY a week

Hours: 6 AM to 12:00 PM

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

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

NO CHANGE, All work will be inside

B. How will the noise from patrons be controlled?

ANY unruly patrons will be ask to leave  
the premises. I will comply with city  
NOISE ORDINANCE

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

TRASH will be pick up every day and  
the kitchen will have Hoods and Filter system  
to comply with Health Dept

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?

Vegetables, MEATS, old cooked food

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

Bestman ~~2003~~ ~~2003~~ ~~2003~~  
3 to 5 bags a day

C. How often will trash be collected?

6 DAYS A week

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

I HAVE POSTED signs and HAVE  
TRASH CANS inside and outside.

EM Employees will Polie the promises

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?

The same guidelines we have been using  
Needs All cater inside our outside premises

#### 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.

I HAVE A PERMIT ALREADY FOR OFF AND ON  
premises





**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: ~~100~~ ~~100~~ ~~100~~ ~~100~~ ~~100~~ At a bar: \_\_\_\_\_ Total number proposed: ~~500~~ ~~440~~

2. Will the restaurant offer any of the following?

~~X~~ alcoholic beverages  beer and wine (on-premises)

per conversation  
8/20

~~X~~ beer and wine (off-premises)

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

LATIN AMERICAN Foods And tortillas and  
BREADS.

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? N/A

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: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

RUSSELL RD

WAFFLÜ SHOP

SEMI DR-1 CLEANING

LA FERNA

3856

16"

18"

15"

columns

TRASH CAN

← BUS STOP

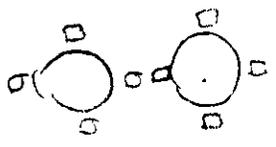
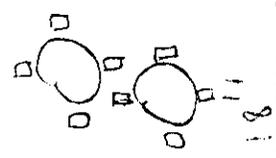
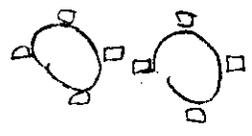
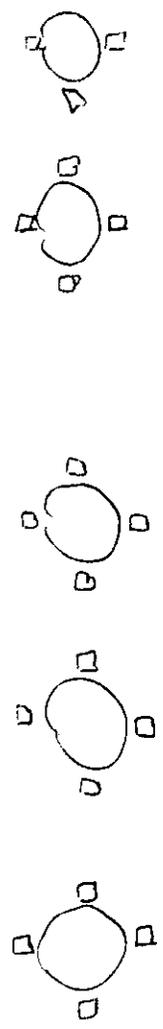
177 VERNON AVE

Sup2002-0058

SUP 2002-0058

WASSILE  
STAMP

15"



191

- SALAD BAR
- BAKERY DISPLAY
- SOBA COOLER
- STEAK TABLE

TORTILLA OVER

22

3856  
LA FERIA

WALL

KITCHEN

WALK IN  
COOLER

WINE FRIDGE

BATHROOM

OFFICE

BATHROOM



VP

6

# APPLICATION for SPECIAL USE PERMIT # 2002-0058

[must use black ink or type]

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PROPERTY OWNER Name: JOE HELLER

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22206

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Needs to HAVE TABLES inside outside  
(LA FERIA DEL PESCADO)

(prev. 94-0342)  
+ prev. 95-01460

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FERNANDO IRAZABAL  
Print Name of Applicant or Agent

[Signature]  
Signature

3840 MT VERNON AVE  
Mailing/Street Address

703 836 5959 703 683 8856  
Telephone # Fax #

Alex VA 22305  
City and State Zip Code

6/18/02  
Date

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

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

ACTION - PLANNING COMMISSION: 9/3/2002 RECOMMENDED APPROVAL UC

ACTION - CITY COUNCIL: 9/14/02PH--CC approved the Planning Commission recommendation.