

EXHIBIT NO. 1

14  
9-13-03

Docket Item #16  
SPECIAL USE PERMIT #2003-0024

Planning Commission Meeting  
June 3, 2003

**ISSUE:** Consideration of a review for a special use permit for an automobile service station.

**APPLICANT:** Essam Danfora

**LOCATION:** 2838 Duke Street

**ZONE:** CG / Commercial General

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**CITY COUNCIL ACTION, JUNE 14, 2003:** City Council deferred this item until September.

**PLANNING COMMISSION ACTION, JUNE 3, 2003:** On a motion by Mr. Komoroske, seconded by Mr. Dunn, the Planning Commission voted to recommend approval of the request, subject to compliance with all applicable codes, ordinances and staff recommendations and to delete Conditions #1, 2, 14, 15, 16, and 17. The motion carried on a vote of 7 to 0.

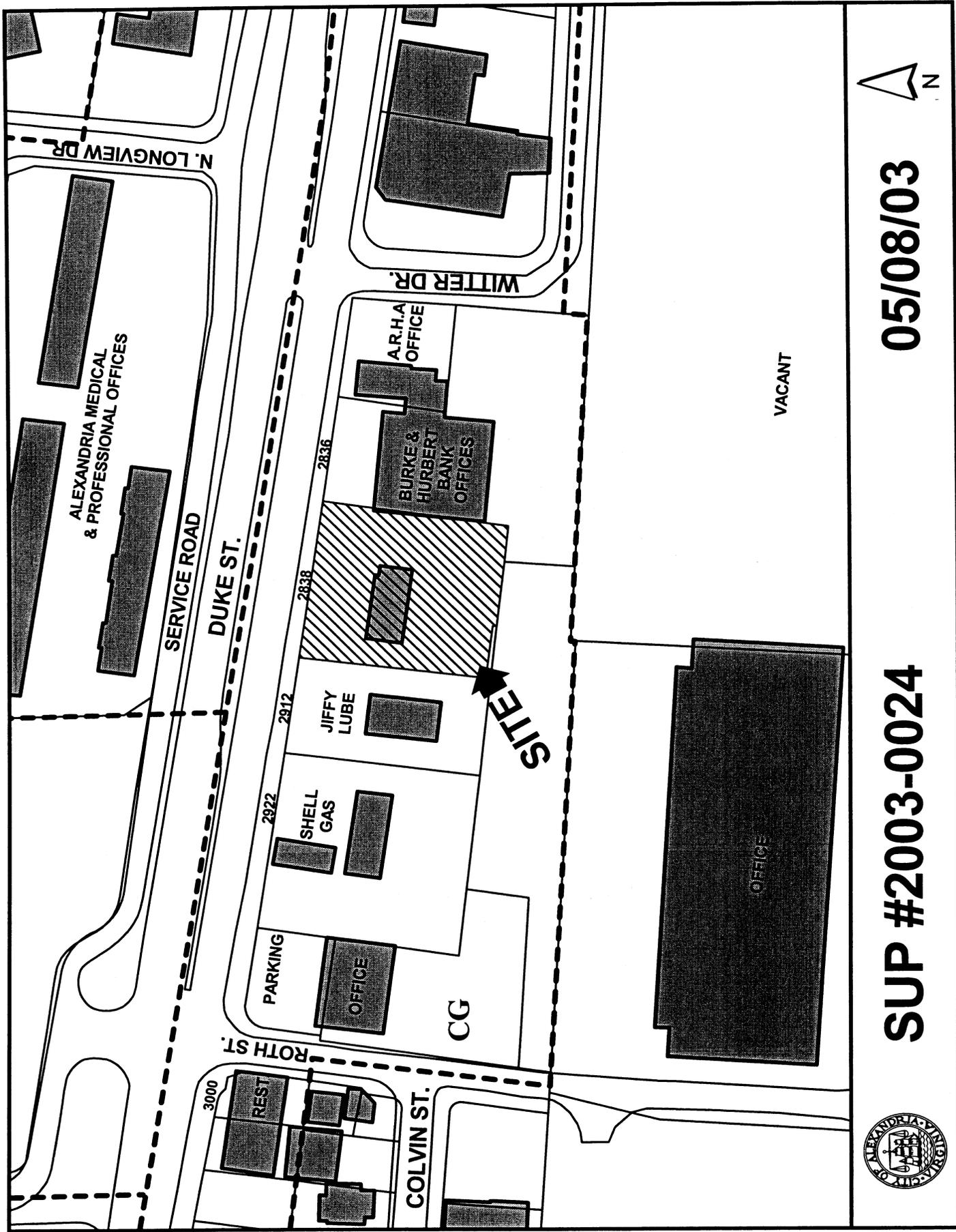
**Reason:** The Planning Commission agreed with the staff analysis and with the applicant's request to remove conditions that were no longer applicable.

**Speakers:**

Duncan Blair, applicant's attorney, requested the removal of Conditions #1, 2, and 14 through 17, and approval for the continued operation of the subject business.

**PLANNING COMMISSION ACTION, MAY 8, 2003:** By unanimous consent, the Planning Commission deferred the request.

**Reason:** The applicant requested the deferral.



05/08/03

SUP #2003-0024



STAFF RECOMMENDATION:

Staff recommends **approval** subject to compliance with all applicable codes and ordinances and the following conditions:

1. **DELETED BY PLANNING COMMISSION:** ~~Driveway easements over joint driveway shall be recorded. (Public Works) (Planning and Regional Affairs) (SUP #737)~~
2. **DELETED BY PLANNING COMMISSION:** ~~All sloped areas shall be seeded and sodded as part of site plan approval. (Planning and Regional Affairs) (SUP #737)~~
3. No abandoned, stripped, or junked vehicles shall be kept on the premises. (Planning and Regional Affairs) (SUP #737)
4. 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 95-0118)
5. Repair work done on the premises shall be limited to light automobile repair. (P&Z) (SUP 95-0118)
6. No repair work shall be done outside. (P&Z) (SUP 95-0118)
7. The applicant shall provide a parking plan for the lot to the satisfaction of the Director of Planning and Zoning and shall stripe the parking spaces according to the approved plan prior to the issuance of a building permit for the canopy. (P&Z) (SUP 95-0118)
8. A minimum of a 22 foot wide drive aisle shall be provided around the building, for access to the service bays. (P&Z) (SUP 95-0118)
9. Vehicles shall be parked in a neat and orderly manner, generally in the designated striped parking spaces. (P&Z) (SUP 95-0118)
10. No vehicles shall be displayed, parked, or stored on a public right-of-way. (P&Z) (SUP 95-0118)
11. 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 95-0118)

12. The hours of operation shall be limited to between 6:00 A.M. and 10:00 P.M., daily (P&Z) (SUP 95-0118)
13. 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. (T&ES) (SUP 2001-0114)
14. **DELETED BY PLANNING COMMISSION:** ~~The applicant shall provide a soils report from a professional geotechnical company to determine stability of filled area prior to issuance of any building permits. (T&ES) (SUP 95-0118)~~
15. **DELETED BY PLANNING COMMISSION:** ~~The applicant shall provide a drainage study plan satisfactory to the Director of Transportation and Environmental Services by May 15, 1997 and shall implement its findings by June 15, 1997. (P&Z) (SUP 97-0178)~~
16. **DELETED BY PLANNING COMMISSION:** ~~The applicant shall contact the Crime Prevention Unit of the Alexandria City Police Department for a robbery awareness program for all employees and a security survey. (Police) (SUP 95-0118)~~
17. **DELETED BY PLANNING COMMISSION:** ~~No building permit shall be issued for the canopy until the applicant has satisfactorily completed the payments required by the Promissory Note dated October 25, 1995 and signed by the applicant related to outstanding taxes due the City. (P&Z) (SUP 95-0118)~~
18. The applicant shall install two to four street trees and shrubbery along the property line fronting Duke Street to the satisfaction of the Director of Planning and Zoning by May 1, 2002. (P&Z) (SUP 2001-0114)
19. The applicant shall maintain plants in good condition. (P&Z)(SUP 95-0118)
20. All loudspeakers shall be prohibited from the exterior of the building. No amplified sound shall be heard at the property line. (P&Z) (T&ES)
21. Condition deleted. (CC) (SUP 97-0178)

22. **CONDITION RENEWED BY STAFF:** The Director of Planning and Zoning shall review the special use permit one year from 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-2001-0114)
23. The applicant shall maintain the planting bed on the eastern side of the property with its current plantings and in its current neat and orderly condition in perpetuity. (PC) (SUP 2001-0114)
24. No banners, streamers, flags, or similar advertising devices shall be displayed on the premises, but signs advertising the general business conducted on the premises may be displayed in accordance with Article IX, Section 9-100 of the zoning ordinance of the City of Alexandria, Virginia. (P&Z) (SUP 2001-0114)
25. Loading and unloading of vehicles, if any, shall take place on-site and during hours of operation. (P&Z) (SUP 2001-0114)
26. 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 2001-0114)
27. No material shall be disposed of by venting into the atmosphere. (T&ES) (SUP 2001-0114)
28. 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. (T&ES) (SUP 2001-0114)
29. **CONDITION ADDED BY STAFF:** The applicant shall conduct employee training sessions on an ongoing basis, including as part of any employee orientation process, to discuss all special use permit provisions and requirements. (P&Z)
30. **CONDITION ADDED BY STAFF:** Convenience retail items sold shall be limited to cigarettes, sodas, prepackaged snack foods, chips, cookies, gum, magazines and similar items. (P&Z)

DISCUSSION:

1. The applicant, Mr. Danfora, is before the Planning Commission for a review of the special use permit for an automobile service station.
2. The subject property is one lot of record with an area of 27,093 square feet, approximately 150 feet of frontage along Duke Street, and a depth of 180 feet. A one story gas station with two pump islands and three service bays occupy the lot. The adjacent land uses include commercial businesses along the Duke Street corridor.
3. The subject business is an automobile service station. It is permitted to operate daily between 6:00 a.m. and 10:00 p.m., and the repair business is limited to light automobile repair.
4. An automobile service station has been operating on site since 1968 (SUP #737). The current applicant has owned the automobile service station since the late 1980s, but has a poor history of compliance with the special use permit. Staff has had to bring the special use permit forward for review by the Planning Commission and City Council every year since 1997 due to violations. This year is no exception.
5. Planning staff inspected the subject site on March 12, 2003, and found four violations of the existing special use permit (SUP 2001-0114). The business was in violation of Conditions #3 (no abandoned vehicles on the premises), #5 (transmissions on-site indicating general auto repair, only light auto repair permitted), #9 (vehicles not parked in an orderly manner), and #11 (tires, batteries, transmissions and other junk outside of dumpster). Staff inspected the site again on April 9, 2003 and found the applicant largely in compliance. There were a few boards at the rear outside of the dumpster that the applicant said would be picked up by April 11, 2003. Staff visited the site on April 11<sup>th</sup>, 2003 and the applicant cleared these boards while staff was at the site.
6. Code Enforcement staff inspected the subject site on April 1, 2003, and also found a series of violations that are listed under Code Comments at the end of this document.
7. Staff also issued tickets on January 22, 2003, January 29, 2003 and February 14, 2003 for illegal banners.

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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.

STAFF ANALYSIS:

Staff is concerned with the applicant's history of violations at the subject site. Additionally, the applicant has yet to comply with the sign violations recorded by staff in January and February 2003 and has conducted illegal building demolition work (work done without proper permits). However, the applicant has complied with the landscaping requirements of SUP #2001-0114 and has corrected the special use permit violations that staff found at its March 12, 2003 inspection.

Staff wants to see the business continue and comply with the conditions under which the City of Alexandria allows him to operate his business. Staff recommends that the applicant be allowed to continue operation with another review to take place in one year.

Staff also recommends that a condition requiring employee training be added, and that a condition limiting the variety of accessory retail items be added. The applicant illegally enlarged the area that holds retail items such as drinks, candy, newspapers, etc, and staff would like to add a limitation on the variety of retail items so that the applicant is aware that anything beyond the sale of those items could constitute a convenience store use and, consequently, require additional review. The applicant needs to work with Code Enforcement to correct all Code violations, including the illegal demolition/enlargement of the retail area and the other items listed under Code Comments at the rear of this document. Additionally, the applicant needs to correct the sign violations for which he has been repeatedly ticketed. If the applicant does not correct the sign violations, then staff will refer the case to the City Attorney's office for enforcement.

Additionally, attorney Duncan Blair, on behalf of the applicant, requested further clarification of Condition #9, which requires that "Vehicles shall be parked in a neat and orderly manner, generally in the designated striped parking spaces". Staff considers this condition to mean that the applicant should make every effort to park cars in the designated parking spaces and, where this is temporarily not possible, to at a minimum not block cars already parked in parking spaces and not block the drive aisle or emergency access lanes.

Staff recommends approval of special use permit subject to the list of existing and proposed conditions.

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

CITY DEPARTMENT COMMENTS

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

Transportation & Environmental Services:

- C-1 The applicant shall comply with the City of Alexandria's Noise Control Code, Title 11, Chapter 5, which sets the maximum permissible noise level as measured at the property line.
- R-1 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-2 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-3 No material shall be disposed of by venting into the atmosphere..
- R-4 All loudspeakers shall be prohibited from the exterior of the building.

Code Enforcement:

- C-1 The property was inspected on 4/1/03. The following conditions / violations were noted:
  - Numerous open or improperly stored containers of flammable / combustible liquids located inside the garage and in the containment pit for waste motor oil.
  - No required fire extinguisher on welding cart.
  - Numerous areas of spilled motor oil on pavement inside and outside as well as on vertical surface of containment pit.
  - Trash and debris located inside and outside on property.

--Oil containment retaining wall is in disrepair. Wall has been breached and is falling down.

--Excessive storage in rear storage area makes access impossible. No clearance around furnace and electrical panels.

--Walls between storage room and service bay have been breached. Large sections of each wall has been removed. Cold drink refrigerators have been slid into each opening. No fire partitions exist now due to illegal demolition work.

--Excessive use of extension cords to power cold drink refrigerators and permanent power equipment.

A follow up inspection is scheduled in the next 30 days.

Health Department:

F-1 No comments.

Police Department:

F-1 No objections, the business has had two reported calls for service, both larcenies since January 2002. The business does not have an A.B.C. permit which the Police Department concurs with.

APPLICATION for SPECIAL USE PERMIT # 2003-0024

[must use black ink or type]

PROPERTY LOCATION: 2838 Duke St.

TAX MAP REFERENCE: \_\_\_\_\_ ZONE: CG

APPLICANT Name: Essam Danfora

Address: \_\_\_\_\_

PROPERTY OWNER Name: \_\_\_\_\_

Address: \_\_\_\_\_

PROPOSED USE: Review of automobile service station  
"Duke Street Mobile"

**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.

Ducan W. Blair, esq.  
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: RECOMMEND APPROVAL 7 TO 0

ACTION - CITY COUNCIL: 6/14/03PH--CC deferred this item until September  
(at the request of the applicant.) (SEPARATE  
MOTION)



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

(COM 2003-0089)

SUP 2001-0114

Z-03

NO 2836

**NOTICE OF VIOLATION**  
YOU ARE CHARGED WITH VIOLATING THE  
ALEXANDRIA, VIRGINIA ZONING ORDINANCE

Date ticket served: 3.12.03 Wed Day of Week 3:41 Time AM/PM

Location of Violation: 2058 Duke St.

Ord. Section: 11-500, 11-505

Description of Violation: Violations of  
Conditions # 3 (abandoned white truck),  
# 5 (transmissions at dumpster area),  
# 9 (vehicles not parked in spaces),  
# 11 (tires, batteries, transmissions and  
other junk outside of dumpster)

Penalty \$: 100 SUP # 2001-0114

1st  2nd  3rd/MORE

IF THE VIOLATION IS NOT CORRECTED BY  
3.22.03 AN ADDITIONAL MONETARY  
PENALTY WILL BE ASSESSED. (10 DAYS)

Mary V. Heavener  
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

F-PC-0001

NOTICE SERVED ON:

NAME LAST Darlene Pink FIRST Pink MIDDLE

PROPERTY OWNER Mobil Gas Station 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 3.12.03

**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.

Name of Person or Business Served Address of Service 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

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

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

2. TO REQUEST A COURT HEARING:

- Check the "Contest in Court" box below and:
  - (a) Mail this completed notice to the Office of the City Attorney, City Hall, Suite 1300, 301 King Street, Alexandria, Virginia, 22314; or
  - (b) Appear in person or by an authorized representative, at the above address between the hours of 8:00 a.m. - 5:00 p.m., Monday-Friday, phone 703-838-4433.
- If you wish to contest this violation a date will be set for trial in the General District Court of Alexandria, Virginia. Failure to appear in court on the date set for trial, unless prior approval has been granted by a judge of that court, will result in the entry of a default judgement against you.

3. TO CONTEST THE INTERPRETATION OF THE ORDINANCE:

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

FOR INFORMATION CONCERNING THIS TICKET CALL PLANNING AND ZONING AT 703-838-4698

**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.

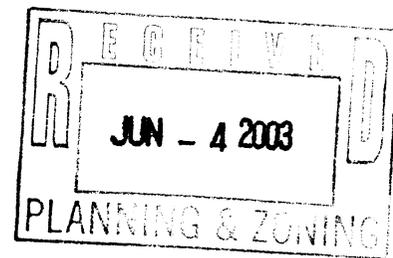
Signature \_\_\_\_\_ Date \_\_\_\_\_

F-PLN-0071 (7/00)

LAND, CLARK, CARROLL, MENDELSON & BLAIR, P.C.

*Attorneys & Counsellors at Law*

524 KING STREET  
ALEXANDRIA, VA 22314



MAILING ADDRESS:  
P.O. BOX 19888  
ALEXANDRIA, VIRGINIA 22320-0888

H. CARTER LAND, III  
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RICHARD S. MENDELSON  
DUNCAN W. BLAIR

.....  
(703) 836-1000

FACSIMILE  
(703) 549-3335

May 30, 2003

Ms. Barbara Ross  
Deputy Director  
Department of Planning & Zoning  
City of Alexandria  
301 King Street, City Hall  
Alexandria, Virginia 22314

SUP 2003-0024

**In Re SUP #2003-0024, Duke Street Mobil**

Dear Barbara:

Thank you for taking the time to meet with Rick Danfora, of Duke Street Mobil, and me to discuss the operations of his business and the Staff Report prepared for the June Planning Commission and City Council Public Hearing. Thank you for conveying to him that his business is a good business and one the City would like to see continue and prosper, notwithstanding the fact that the business was sited with a zoning violation with the violation of four operational special use permit conditions.

Based on our review of the existing SUP we respectfully request that the Staff consider recommending to the Planning Commission and City Council the elimination of Conditions 1,2, 14, 15, 16, and 17, as they are all long ago satisfied site plan conditions.

I think the elimination of these conditions does not lessen the regulation of the business, but will remove references to conditions which were satisfied a long time ago.

If you have any questions please do not hesitate to call.

Very truly yours,

Duncan W. Blair

cc: Rick Danfora

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*City of Alexandria, Virginia*

14  
            
9-13-03

MEMORANDUM

DATE: SEPTEMBER 9, 2003

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

THROUGH: PHIL SUNDERLAND, CITY MANAGER

FROM: EILEEN FOGARTY, DIRECTOR  
PLANNING AND ZONING 

SUBJECT: MOBIL SERVICE STATION  
2838 DUKE STREET  
SUP #2003-0024

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The Mobil service station special use permit was before the Planning Commission and City Council for a one year review in June. Although staff and the Planning Commission had recommended approval of the permit, by the time the case reached City Council, building code problems noted in the report had become a serious problem. On the applicant's representation that they would be corrected, Council deferred the case until the September hearing.

As a result of litigation instituted by the City to enforce against the building code violations at the service station, and the resulting misdemeanor conviction of the applicant, the applicant has corrected the building code problems.

Therefore, although not pleased that it took litigation to cure the problem, staff continues to recommend approval of the service station use at this location. There are no current violations of the permit, there is a one year review (Condition #22), and staff has been contacted by a prospective purchaser of the business.

emailed to Council 9/12/03

14  
9-13-03

James Lee  
Community Market  
1006 Madison Street  
Alexandria, VA 22314

September 12, 2003

Dear Sir or Madam:

I am writing this letter in responding to **Docket Item #14 Special Use permit #2003-0057** regarding the consideration of a request for a special use permit to change the ownership of an automobile repair garage. I wasn't aware of the hearing and wasn't able to attend the hearing; therefore I am writing this letter.

I have read the staff recommendation and wanted make comments to staff's recommendations. Following are the comments to the conditions:

**Condition # 2:** There has been an incident when the size of the automobiles has gone over the restrictions.

**Condition # 3:** The repairs have been done outside and also the repairs have been done on the premise of loading/unloading zone in front of the Community Market. Due to the repairs, the oil leaks and some nuts, bolts, washers, screws, wires, fuses, and etc have been founded on the street. Oil leaks may damage the pavements, and hardware (screws, bolts, wires, and etc) may damage the tires to the vehicles nearby. Sometimes oil leaks affect the Community Marketing when the customers accidentally step on the oil and come into the store and make mess on the store floors.

**Condition #4:** The applicant has informed that none of the employees drive to work, but the employees' cars are still being parked on the side streets. Also, this condition needs to be enforced because the cars that are not allowed to parked on the street, such as employees' and customers' cars, are being parked other than the garage or adjacent storage building. This has caused some inconveniences to the customers of the Community Market because when the customers drive to store, they usually have hard time finding a parking space.

**Condition #5:** Please enforce this condition.

**Condition #12:** Please enforce this condition - Many times the loud base vibration sound, car alarm sounds, and other loud sounds can be heard even to me and this bothers me a lot.

**Condition #17:** Please enforce this condition.

**Condition #19:** Please enforce the vehicles to load/unload to take

place on-site.

**Condition #21:** Please enforce this condition because there have been incidents when the odors and smokes have gotten into the Community Market and the odors and the smokes have caused some inconveniences to the customers.

**Condition #24:** Please enforce this condition: see #4 for additional information.

Please consider the comments to each condition; enforcing the conditions that the staffs have recommended will be greatly appreciated. I hope I am protected under the Code/Law of Alexandria.

Sincerely,

**James Lee**

James Lee

Owner, Community Market