

EXHIBIT NO. 1

5
10-15-05

Docket Item #6
SPECIAL USE PERMIT #2005-0089

Planning Commission Meeting
October 4, 2005

ISSUE: Consideration of a request for a special use permit amendment to increase the number of seats at an existing restaurant.

APPLICANT: DelNayeri Company LLC/a La Lucia
by Mehran Nayeri

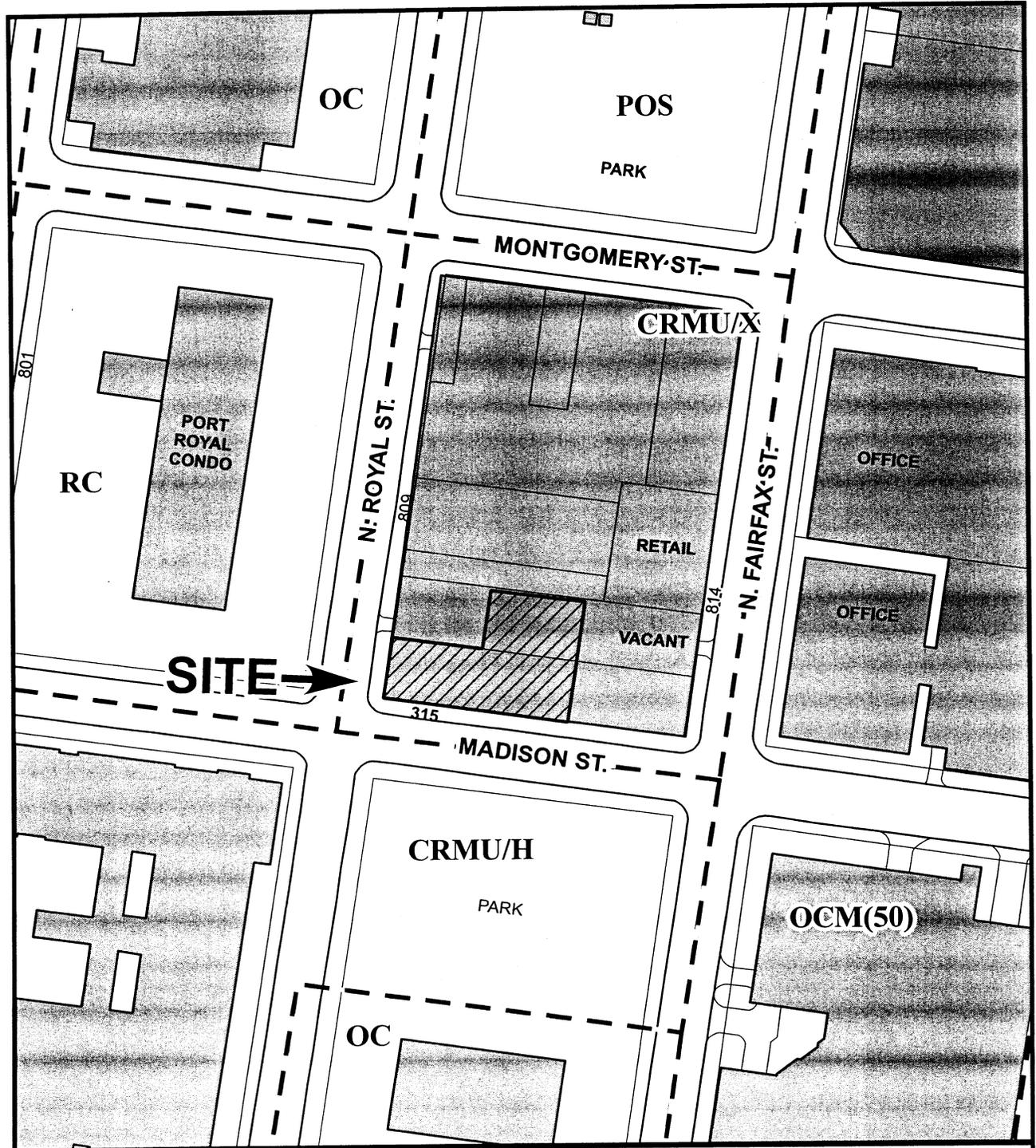
LOCATION: 315 Madison Street

ZONE: CRMU-X/Commercial Residential Mixed Use

PLANNING COMMISSION ACTION, OCTOBER 4, 2005: 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.

STAFF RECOMMENDATION: Staff recommends **approval** subject to compliance with all applicable codes and ordinances and the recommended permit conditions found in Section III of this report.



SUP #2005-0089

10/04/05



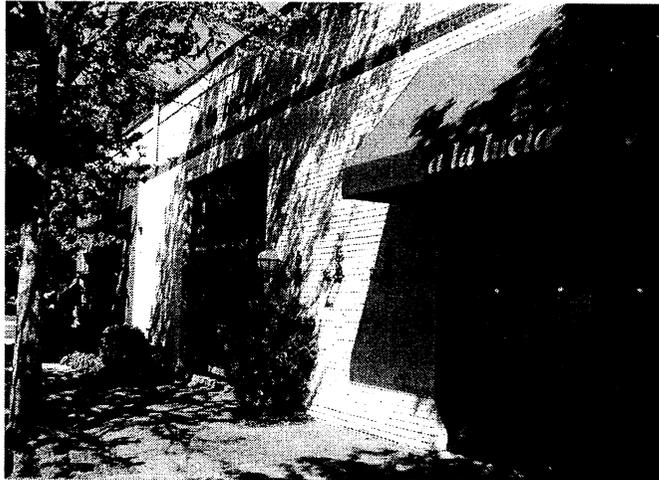
I. DISCUSSION

REQUEST

The applicant, Mehran Nayeri, requests special use permit approval to increase the number of seats at an existing restaurant located at 315 Madison Street.

SITE DESCRIPTION

The subject property is one lot of record which encompasses most of an entire city block with approximately 250 feet of frontage on Madison and Montgomery Streets, and 362 feet of frontage along North Fairfax and North Royal Streets. The Montgomery Center is a commercial development of 92,395 square feet that includes personal service, retail and community service uses. The subject restaurant proposed to occupy 2,624 square feet. The subject property is surrounded by residential condominium developments and office buildings.



HISTORY AND CURRENT RESTAURANT

A restaurant/bakery has operated in this location since 1983. Conditions for the operation of a full-service restaurant with increased seats, outdoor seating and hours of operation were added over the years. From 1998 to 2001, the restaurant was operated as Flatbreads. In December 2003, an administrative change of ownership was granted by the Director of Planning and Zoning allowing the ownership of the restaurant to change from Alborz Inc. to DelNayeri Company LLC, converting the restaurant into "a La Lucia". On June 12, 2004, City Council approved Special Use Permit #2004-0026 to add seats and increase the space and hours of the restaurant. The applicant is currently completing the interior improvements for the expansion. The applicant has been operating with approximately 40 seats, although up to 75 were previously approved.

PROPOSAL

The applicant now seeks to increase the allowable number of seats from 75 to 120. Approximately 25 seats will be in the wine bar located at the corner of the building, and the remaining seats would be for full-service dining. Most of the seats will be located in the area to the west of the kitchen (see attached floor plan), with the existing restaurant area proposed to be a more open entryway, with fewer seats. The additional seating will allow the applicant to accommodate larger parties and banquets. The applicant does not expect a full capacity of patrons on a regular basis. No other changes are proposed.

On September 16, 2005, staff visited the subject property to determine if the business was in compliance with the conditions of its special use permit. Staff found no violations of the special use permit. Staff observed that the interior renovations for the expansion are almost complete.

PARKING

Parking is regulated through the Montgomery Center umbrella SUP #2004-0080, which allows restaurants to occupy a total of 10,000 square feet without providing additional parking or triggering the need for parking reductions. There are currently three restaurants located within the center that comprise 5,411 square feet of floor area (A La Lucia: 2,624 square feet (includes the expanded area currently under renovation), Perks Coffee House: 1,137 square feet and Bruscatos restaurant: 1,650 square feet). The 5,411 square feet is within the anticipated restaurant space for the center approved under the umbrella SUP.

ZONING/MASTER PLAN DESIGNATION

The subject property is located in the CRMU-X/Commercial Residential Mixed Use zone (Old Town North). Section 5-403(V) of the Zoning Ordinance allows a restaurant in the CRMU-X zone only with a special use permit. The Old Town North small area plan chapter of the Master Plan anticipates redevelopment of the site and designates the property for commercial residential mixed use.

II. STAFF ANALYSIS

Staff does not object to the increase in the number of seats at the restaurant. The full-service restaurant provides a restaurant service to area residents and office workers. Staff is not aware of any issues associated with "a La Lucia" since it has been in operation. City Council approved a parking reduction for the entire Montgomery Center, allowing up to 10,000 square feet for restaurant space. The three existing restaurants total only 5,411 square feet, which would allow a significant amount of additional restaurant space assumed in the parking reduction. As a practical matter, staff visited the Center during evening hours when impacts from the subject restaurant would be greatest, and observed a number of available parking spaces within the near vicinity of the restaurant.

Therefore, staff recommends approval of the special use permit.

III. RECOMMENDED CONDITIONS

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 #1622-A)

2. Trash and garbage shall be stored inside the building or in a dumpster. (P&Z) (SUP #1622)
3. Condition deleted. (SUP #97-0185)
4. 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 or debris shall be allowed to accumulate on site outside of these containers. (P&Z)(SUP #97-0185)
5. Litter on the site and on public rights-of-way and spaces adjacent to or within 75 feet of the premises shall be picked up at least twice daily and more often if necessary, to prevent an unsightly or unsanitary accumulation, on each day that the business is open to the public. (P&Z)(SUP #97-0185)
6. Condition deleted. (SUP #97-0185)
7. No food, beverages or other material shall be stored outside. (P&Z) (SUP #1622)
8. The hours of operation of the business shall be limited to 7:00 A.M. to 12:00 midnight daily. (P&Z) (SUP#2004-0026)
9. **CONDITION AMENDED BY STAFF:** Seating shall be provided inside for no more than ~~75~~ 120 patrons. (P&Z) (~~SUP#2004-0026~~)
10. No outside dining facilities shall be provided on the public right-of-way. Outside dining may be provided on private property subject to a plan, to include landscape containers/planters, that is reviewed and approved by the Director of Planning and Zoning. The applicant shall ensure that pedestrian access is provided past the outdoor seating and shall clean and wash the seating area at the close of each day of operation. (P&Z) (SUP#2001-0069)
11. No live entertainment shall be provided at the restaurant. (P&Z) (SUP #97-0185)
12. The applicant shall post the hours of operation at the entrance to the restaurant. (P&Z) (SUP #97-0185)

13. On-premise beer and wine service is permitted. For off-premises sales, the following rules apply: Beer and 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. (P&Z) (SUP #97-0185)
14. Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys, or storm sewers. (T&ES) (SUP #97-0185)
15. No amplified sound shall be audible at the property line. (P&Z) (SUP #97-0185)
16. Condition deleted. (SUP# 2001-0069)
17. 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, which were not corrected immediately, constitute repeat violations or which create a direct and immediate adverse zoning impact on the surrounding community; (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 of the permit conditions, or (c) the director has determined that there are problems with the operation of the use and that new or revised conditions are needed. (P&Z)
18. The applicant shall control cooking odors ,smoke and any other air pollution from operations at the site to prevent them from becoming a nuisance to neighboring properties, as determined by the Department of Transportation and Environmental Services. (T&ES) (SUP#2004-0026)
19. The applicant shall contact the Crime Prevention Unit of the Alexandria Police Department at 703-838-4520 for a security survey for the business and robbery awareness program for all employees. (Police) (SUP#2004-0026)
20. 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) (SUP#2004-0026)
21. 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, and to provide instruction preventing underage sales of alcohol. (P&Z) (SUP#2004-0026)

22. The applicant shall encourage its employees to use mass transit or to carpool when traveling to and from work, by posting information regarding DASH and METRO routes, the location where fare passes for transit are sold, and advertising of carpooling opportunities. (P&Z) (SUP#2004-0026).

STAFF: Eileen Fogarty, Director, Department of Planning and Zoning;
Richard Josephson, Deputy Director;
Valerie Peterson, Urban Planner.

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.

IV. 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. (T&ES)
- 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. (T&ES)
- R-3 Loudspeakers shall be prohibited from the exterior of the building, and no amplified sounds shall be audible at the property line. (T&ES)
- 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:

- F-1 The current approved occupant load is 48. The applicant indicates the current occupant load is 75. The occupant load shall be reduced to the approved occupant load of 48.
- F-2 The proposed additional occupant load increase exceeds the required number of restroom facilities proposed. The plans shall be revised so that the number of restroom facilities comply with the requested maximum occupancy load requested.
- C-1 New construction must comply with the current edition of the Uniform Statewide Building Code (USBC).
- C-2 Alterations to the existing structure must comply with the current edition of the Uniform Statewide Building Code (USBC).
- C-3 A new fire prevention code permit is required for the proposed increase in operation. An egress plan showing fixture location, aisles and exit doors shall be submitted for review with the permit application.

- C-4 Alterations to the existing structure and/or installation and/or altering of equipment therein requires a building permit. Five 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-5 Required exits, parking, and accessibility for persons with disabilities must be provided to the building.
- C-6 A Certificate of occupancy shall be obtained prior to any occupancy of the building or portion thereof, in accordance with USBC 119.0.

Health Department:

- C-1 An Alexandria Health Department Permit is required for all regulated facilities.
- C-2 This facility and all modifications must meet current Alexandria City Code requirements for food establishments.
- C-3 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 plans review of food facilities.
- C-4 Permits must be obtained prior to operation.
- C-5 Certified Food Managers must be on duty during all hours of operation.
- C-6 Restrooms, including those in common areas, serving the restaurant, are to meet Alexandria City Code, Title 11, Chapter 2 requirements.
- R-1 Provide a menu or list of foods to be handled at this facility to the Health Department prior to opening.
- F-1 This facility is currently operating as A La Lucia under an Alexandria Health Permit issued to Mehran Nayrei.

Police Department:

- F-1 The Police Department has no objections to the expansion as long as conditions # 13 listed under "Recommended Conditions" (SUP#2004-0026) still applies.
- F-2 All recommendations from SUP #2004-0026 are still the position of the Police Department.

APPLICATION for SPECIAL USE PERMIT # 2005-0089

[must use black ink or type]

PROPERTY LOCATION: 315 madison ST

TAX MAP REFERENCE: 55.03-01-1005 ZONE: CRMU-X

APPLICANT Name: Mehran Nayeri

Address: 3824 White post Court Alex VA 22304

PROPERTY OWNER Name: MRE Property

Address: Montgomery ST

PROPOSED USE: Increase Setling Capacity

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.

Mehran Nayeri
Print Name of Applicant or Agent

M. Nayeri
Signature

3824 White post CT
Mailing/Street Address

703-836-5123 703-
Telephone # Fax #

Alex VA 22304
City and State Zip Code

7/25/05
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.

DelNayer Company LLC
Mehran Nayeri
3824 White Post Ct
Alex VA 22304

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)

Increase Seating From 75 To 120

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).

120 person | _____

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

15 _____

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

Day: _____
on File _____

Hours: _____
on File _____

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

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

None all internal _____

B. How will the noise from patrons be controlled?

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

NONE

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?

Food, and bottles.

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

C. How often will trash be collected?

every six days a week

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

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

Yes. No.

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

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

Yes. No.

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

The degreasing and grease will be taken out
by potter's valley protein

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

ALCOHOL SALES

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

Yes. No.

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

There is a 1/25 To 1/30 of sales is alcohol beverage.
and there is a existing license which must be
modified after zoning permit is issued

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?

None

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:

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? None

B. How many loading spaces are available for the use? 2

C. Where are off-street loading facilities located? FRONT OF 315 main

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

9 To 11 AM

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

3 Times a 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?

Yes

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?

2500 sq. ft. (existing) + _____ sq. ft. (addition if any) = 2500 sq. ft. (total)

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

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

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

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

other, please describe: _____

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: 80 At a bar: 40 Total number proposed: 120

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:

Italian

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: _____

SUPPLEMENTAL INFORMATION FOR RESTAURANTS IN OLD TOWN

**CRITERIA TO BE USED TO EVALUATE NEW OR EXPANDED RESTAURANTS
ADOPTED BY CITY COUNCIL BY RESOLUTION, NOVEMBER 13, 1993**

Parking

1. The applicant must submit a parking management plan (PMP), which specifically addresses the following issues:

- A. The parking demand generated by the proposed restaurant.
- B. The availability of off-street parking for patrons. For the purpose of this policy, availability shall be measured in terms of the number of vacant off-street parking spaces within 500 feet from the entrance to the restaurant.
- C. How employees who drive will be accommodated off the street at least in the evenings and on weekends.
- D. The predicted impact of the restaurant on the parking supply at the evening peak, weekend peak, and daytime peak.
- E. A proposal to reduce the impact of parking created by the restaurant on nearby areas. Acceptable alternatives for reducing parking impacts include, but are not limited to, the following: validated parking or valet parking for patrons, and off-street parking or transit subsidies for employees.

2. Additionally, please answer the following:

- A. What percent of patron parking can be accommodated off-street?
(check one)
- 100%
 - 75-99%
 - 50-74%
 - 1-49%
 - No parking can be accommodated off-street

B. What percentage of employees who drive can be accommodated off the street at least in the evenings and on weekends?

- (check one)
- All
 - 75-99%
 - 50-74%
 - 1-49%
 - None

C. What is the estimated peak evening impact upon neighborhoods?
(check one)

- No parking impact predicted
- Less than 20 additional cars in neighborhood
- 20-40 additional cars
- More than 40 additional cars

Litter

The applicant for a restaurant featuring carry-out service for immediate consumption must submit a plan which indicates those steps it will take to eliminate litter generated by sales in that restaurant.

Alcohol Consumption and Late Night Hours

1. Maximum number of patrons shall be determined by adding the following:

$$\begin{array}{r} \underline{80} \text{ Maximum number of patron dining seats} \\ + \underline{25} \text{ Maximum number of patron bar seats} \\ \underline{15} \text{ Maximum number of standing patrons} \\ \hline \underline{120} \text{ Maximum number of patrons} \end{array}$$

2. _____ Maximum number of employees by hour at any one time

3. Hours of operation:
(check one)

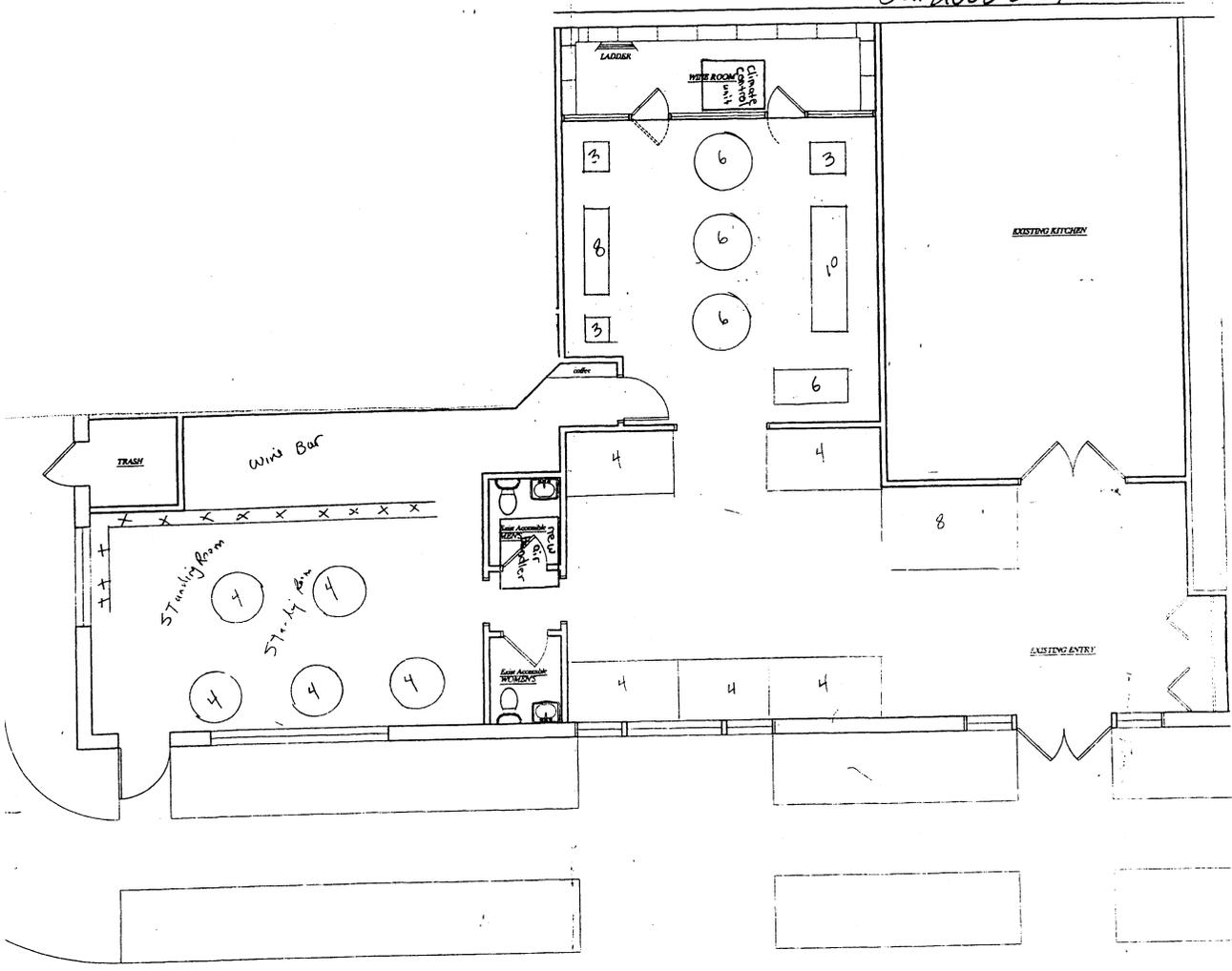
- Closes by 8:00 P.M.
 Closes after 8:00 P.M. but by 10:00 P.M.
 Closes after 10:00 P.M. but by Midnight
 Closes after Midnight

[Closing time means when the restaurant is empty of patrons.]

4. Alcohol Consumption:
(Check one)

- High ratio of alcohol to food
 Balance between alcohol and food
 Low ratio of alcohol to food

SUP2005-0089



A LA LUCIA EXPANSION

ALEXANDRIA, VIRGINIA

APPLICATION for SPECIAL USE PERMIT # 2005-0089

[must use black ink or type]

PROPERTY LOCATION: 315 madison ST

TAX MAP REFERENCE: 55.03-01-1005 ZONE: CRMUX

APPLICANT Name: Mehran Nayeri

Address: 3824 White post Court Alex VA 22304

PROPERTY OWNER Name: MRE PROPERTY

Address: Montgomery ST

PROPOSED USE: Increase Setling Capacity

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Mehran Nayeri
Print Name of Applicant or Agent

M. Nayeri
Signature

3824 White post CT
Mailing/Street Address

703-836-5123 703-
Telephone # Fax #

Alex VA 22304
City and State Zip Code

7/25/05
Date

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

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

ACTION - PLANNING COMMISSION: unanimous consent recommended approval 10/04/05

ACTION - CITY COUNCIL: 10/15/05- CC approved the PC recommendation 7-0