

EXHIBIT NO. 1

9
9-16-06

Docket Item #11
SPECIAL USE PERMIT #2006-0065

Planning Commission Meeting
September 7, 2006

ISSUE: Consideration of a request for a special use permit for the expansion of an existing restaurant to include an increase in physical space, seating and hours of operation.

APPLICANT: Vo Thin
by James C. Pan

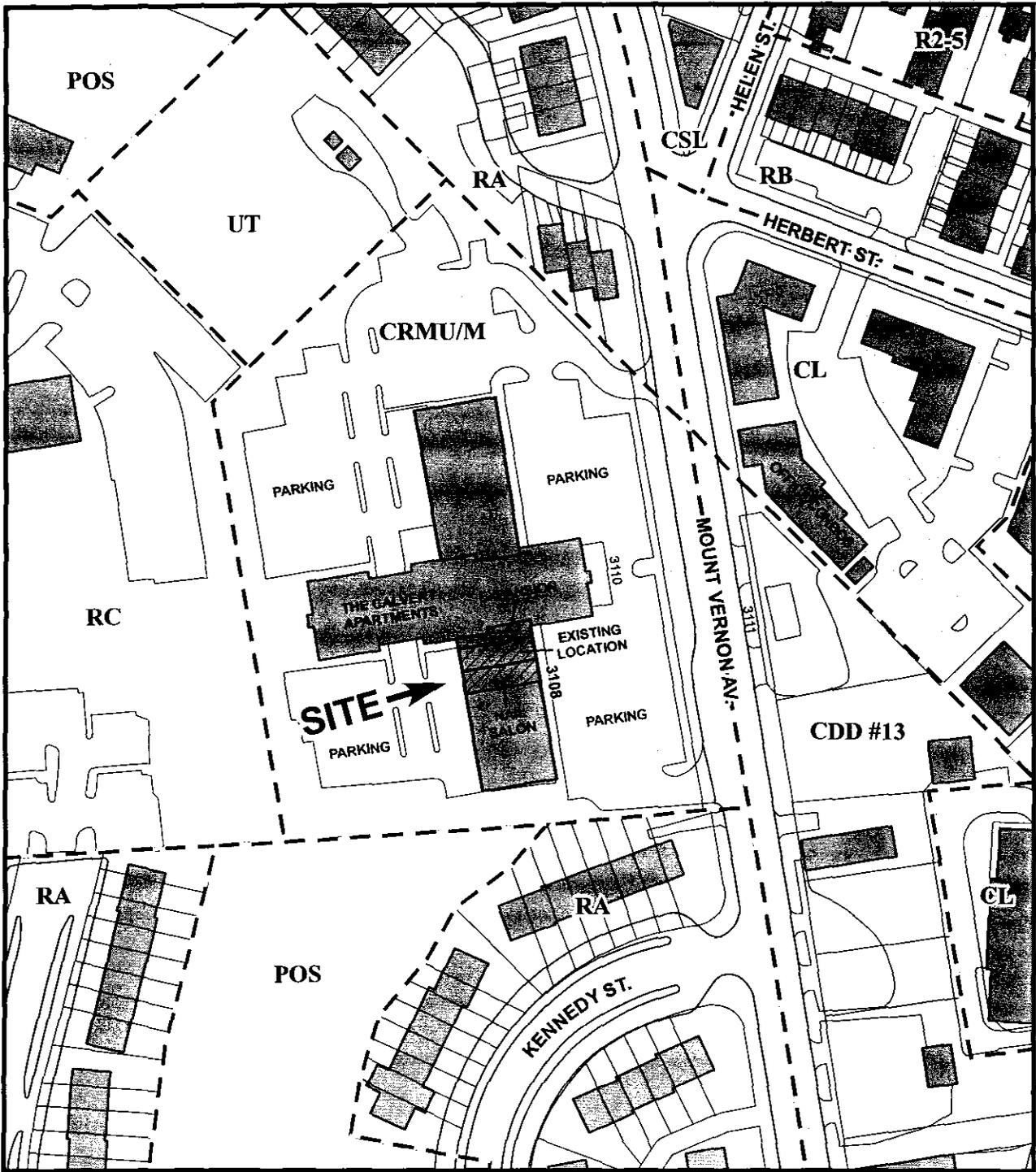
LOCATION: 3108 Mt. Vernon Avenue

ZONE: CRMU-M/Commercial Residential Mixed Use (Medium)

PLANNING COMMISSION ACTION, SEPTEMBER 7, 2006: 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 #2006-0065

09/07/06



I. DISCUSSION

REQUEST

The applicant, Vo Thin, requests special use permit approval for the expansion of a restaurant located at 3108-B Mt. Vernon Avenue.

SITE DESCRIPTION

The subject property is one lot of record with 362 feet of frontage on Mount Vernon Avenue, and a total lot area of 3.4 acres. The site is developed with the Calvert Apartments building, with commercial uses on the first floor of the building. The applicant proposes to occupy a 2,670 square foot space, which includes what is now a video store owned by the applicant (920 square feet), and the existing space (1,750 square feet).



The first floor of the Calvert Apartments building contains 16,142 square feet of commercial space fronting on Mount Vernon Avenue. The commercial space in the center includes three restaurants: the Bombay Curry Company, the Del Merei Restaurant, and Hector's Place.

BACKGROUND

On November 13, 2004, City Council granted Special Use Permit #2004-0084 for the operation of a restaurant with 30 seats at the existing location. Since the approval of the special use permit, there have been no complaints or violations concerning the business. Staff conducted an inspection on August 14, 2006, and found the applicant in compliance with the conditions of SUP#2004-0084.

PROPOSAL

The applicant proposes to expand the existing Vietnamese Restaurant, into what is currently a video rental store, a 920 square foot space. The applicant currently provides 30 seats and proposes to increase seating to 60. The applicant is not proposing delivery service for the restaurant. The applicant is proposing no other changes. The specific aspects of the business as indicated by the applicant are as follows:

Hours:	Monday- Saturday: 10am-midnight Sunday: 10am-10pm
Number of seats:	60

Noise: None

Trash/Litter: 3 bags per day

Alcohol: On premise beer and wine only

PARKING

Pursuant to Section 8-200(A)(8) of the Zoning Ordinance, a restaurant with 60 seats requires a minimum of 15 parking spaces. A total of 133 parking spaces are located on site for the commercial uses. Existing uses with the proposed reconfiguration of the video store and parking requirements are as follows:

Use	Parking Required
Bombay Curry Company Restaurant (SUP #96-0070)	12
Del Merai Restaurant (grandfathered)	27
Nail Chateau	4
Calvert Cleaners	3
Alexandria Appliance Repair	3
Jackson-Hewitt Tax Service	3
Mia's Market	12
Hector's Place	43
<i>Proposed Restaurant</i>	15
Total Required	122
Total Parking provided:	133

ZONING/MASTER PLAN DESIGNATION

The subject property is located in the CRMU-M/Commercial Residential Mixed Use-Medium zone, with proffer. The proffer allows a restaurant with a special use permit (Ordinance #3768). The proposed use is consistent with the Potomac West Small Area Plan chapter of the Master Plan which designates the property for commercial residential mixed uses.

Community Feedback

On August 10, 2006, the Del Ray Land Use Committee held a meeting to discuss impacts regarding the business. The Del Ray Land Use Committee voted in support of the restaurant expansion with the standard conditions.

II. STAFF ANALYSIS

Staff does not object to the proposed restaurant expansion. The restaurant is compatible with the existing residential and commercial uses on site. The ground floor of the Calvert House has historically contained eating establishments and there is adequate parking for customers and employees of the restaurant. To ensure that parking at the front of the restaurant is available for customers, staff recommends that employees park at the lot on the north side of the property, as required for Hector's Place Restaurant. Staff also recommends closing hours more consistent with the other restaurants in the center to provide some flexibility for the business owner.

The applicant was not permitted by SUP#2004-0084 to sell beer and wine, however the applicant is proposing on-site beer and wine sales with the requested Special Use Permit. Staff does not object to the applicant selling on-premise beer and wine only. With these conditions, staff recommends approval.

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#2004-0084)
2. **CONDITION AMENDED BY STAFF:** Seating shall be provided for no more than ~~30~~ 60 patrons. (P&Z)(SUP#2004-0084)
3. The closing hour for the restaurant shall be no later than 11:00 p.m. daily. The applicant shall post the hours of operation at the entrance to the restaurant. (P&Z)(SUP#2004-0084)
4. Live entertainment shall not be permitted. (P&Z)(SUP#2004-0084)
5. **CONDITION AMENDED BY STAFF:** ~~Alcohol service is not permitted.~~(SUP#2004-0084) On premise beer and wine only is permitted. (P&Z)(SUP#2004-0084)
6. No food, beverages, or other material shall be stored outside. (P&Z)(SUP#2004-0084)

7. 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#2004-0084)
8. 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)(SUP#2004-0084)
9. Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers. (T&ES)(SUP#2004-0084)
10. 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)(SUP#2004-0084)
11. Loudspeakers shall be prohibited from the exterior of the building, and no amplified sounds shall be audible at the property line. (T&ES)(SUP#2004-0084)
12. **CONDITION AMENDED BY STAFF:** 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. ~~The survey is to be completed prior to the business opening.~~ (Police)(SUP#2004-0084)
13. The applicant shall require that its employees who drive to work park in the side parking lot, north of the driveway, on the north side of the property. (P&Z)(SUP#2004-0084)
14. The applicant shall work with the landlord to designate 28 parking spaces on the north end of the building for commercial use only. (P&Z)(SUP#2004-0084)

15. The Director of Planning and Zoning shall review the special use permit after it has been operational for one year, 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 the result of a complaint that rises to the level of a violation of the permit conditions, (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#2004-0084)
16. **CONDITION ADDED BY STAFF:** Applicant shall contribute \$500.00 to the Streetscape Beautification Fund for the installation of litter receptacles along the public right-of-ways. Monetary contribution to be submitted to the Department of T&ES, Engineering Division, Room 4130, 301 King Street within 60 days of City Council approval. (T&ES)

STAFF: Eileen Fogarty, Director, Department of Planning and Zoning;
Richard Josephson, Deputy Director;
James Hunt, 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:

- 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 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 Applicant shall contribute \$500.00 to the Streetscape Beautification Fund for the installation of litter receptacles along the public right-of-ways. Monetary contribution to be submitted to the Department of T&ES, Engineering Division, Room 4130, 301 King Street within 60 days of City Council approval.

Code Enforcement:

- C-1 The current use is classified as B, Business; the proposed use is A, Assembly. Change of use, in whole or in part, will require a certificate of use and occupancy (USBC 119.4) and compliance with USBC 119.2. 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-2 Prior to the application for new Certificate of Occupancy, the applicant shall submit a building permit for a change of use. Drawings prepared by a licensed architect or professional engineer shall accompany the permit application. These plans shall show provide existing conditions, construction type data, and a plot plan. In addition, these plans shall show proposed conditions and provide data by the design professional which details how the proposed use will comply with the current edition

of the Virginia Uniform Statewide Building Code[®] for the new use in the area of structural strength, means of egress, passive and active fire protection, heating and ventilating systems, handicapped accessibility and plumbing facilities.

- C-3 A Certificate of Use of Occupancy is required prior to opening (USBC 119.1).
- C-4 Required exits, parking, and accessibility within the building for persons with disabilities must comply with USBC Chapter 11.
- C-5 New construction must comply with the current edition of the Uniform Statewide Building Code (USBC).
- C-6 Alterations to the existing structure must comply with the current edition of the Uniform Statewide Building Code (USBC).
- C-7 Construction permits are required for this project. Plans shall accompany the permit application that fully detail the construction as well as layouts and schematics of the mechanical, electrical, and plumbing systems.
- C-8 A new 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.

Health Department:

- C-1 An Alexandria Health Department Permit is required for all regulated facilities.
- C-2 This facility is currently operating as Pho King Restaurant under an Alexandria Health permit, issued to Vo Thin Ngoc.
- 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 Approval must be obtained prior to use of the modified areas.
- C-5 The facility must comply with the Alexandria City Code Title 11, Chapter 10, Smoking Prohibitions.
- C-6 Certified Food Managers must be on duty during all hours of operation.

- R-1 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 Community Relations Unit of the Alexandria Police Department at 703-838-4520 regarding a security survey for the expansion to the business.
- F-1 The applicant is not seeking an A.B.C. permit. The Police department concurs with this.
- F-2 The Police Department has no objections to extending the operating hours to 11:00 P.M.

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. The description should include 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.)

A. EXPAND CURRENT RESTAURANT SEATING AREA ONLY INTO
ADJACENT TENANT SPACE OF 920 SQUARE FEET.

B. REQUEST TO EXTEND RESTAURANT OPERATING HOURS TO 11:00 PM

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).

CURRENTLY APPROVED FOR 28 SEATS
AFTER EXPANSION. WOULD LIKE TO HAVE 60 SEATS

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

SAME AS APPROVED. TOTAL 4 EMPLOYEES

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

Day:	<u>MONDAY, THRU FRIDAY</u>	Hours:	<u>10-12 PM</u>
	<u>SUNDAY</u>		<u>10-10 PM</u>
	_____		_____
	_____		_____

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

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

NORMAL RESTAURANT OPERATION WITH NO LIVE MUSIC OR PERFORMANCE

B. How will the noise from patrons be controlled?

N/A

H

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

PROVIDE MECHANICAL VENTILATION SYSTEM TO SUPPLY FRESH AIR IN RESTAURANT

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?

LEFTOVER WILL BE DISPOSED IN TRASH CANS AND WILL BE PICKED UP BY MANAGEMENT OF CALVERT

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

OUR MAJOR DISHES ARE NOODLE W/ SOUP, TRASH AND GARBAGE WILL BE MINIMAL (3 BAGS PER DAY)

C. How often will trash be collected?

THREE TIME A WEEK

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

BUILDING MANAGEMENT WILL BE RESPONSIBLE FOR PROPERTY MAINTENANCE OUTSIDE OF TENANT SPACES

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:

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.

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?

15

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

- 13 Standard spaces
- _____ Compact spaces
- 2 Handicapped accessible spaces.
- _____ Other.

C. Where is required parking located? (check one)

- on-site
- off-site

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?

N/A

B. How many loading spaces are available for the use? N/A

C. Where are off-street loading facilities located? N/A

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

N/A

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

N/A

SUP # 2006-0065

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?

N/A

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? N/A square feet.

18. What will the total area occupied by the proposed use be?

1750 sq. ft. (existing) + 920 sq. ft. (addition if any) = 2670 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: CALVERT

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

other. Please describe: _____

SUP # 2006-0065
Admin Use Permit # _____



SUPPLEMENTAL APPLICATION

RESTAURANT

All applicants requesting a Special Use Permit or an Administrative Use Permit for a restaurant shall complete the following section.

- How many seats are proposed?
Indoors: 60 Outdoors: 0 Total number proposed: 60
- Will the restaurant offer any of the following?
Alcoholic beverages (**SUP only**) Yes No
Beer and wine — on-premises Yes No
Beer and wine — off-premises Yes No
- Please describe the type of food that will be served:
VIETNAMESE REGULAR NOODLE SOUPS AND OTHER DISHES
- The restaurant will offer the following service (check items that apply):
 table service 0 bar carry-out 0 delivery
- If delivery service is proposed, how many vehicles do you anticipate? N/A
Will delivery drivers use their own vehicles? NA Yes No
Where will delivery vehicles be parked when not in use?
N/A
- Will the restaurant offer any entertainment (i.e. live entertainment, large screen television, video games)?
 Yes No
If yes, please describe:

Parking impacts. Please answer the following:

1. 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

2. 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

3. 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 plan. 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. Please fill in the following information.

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

+ <u>60</u>	Maximum number of patron dining seats
+ <u>0</u>	Maximum number of patron bar seats
+ <u>0</u>	Maximum number of standing patrons
= <u>60</u>	Maximum number of patrons

2. 4 Maximum number of employees by hour at any one time

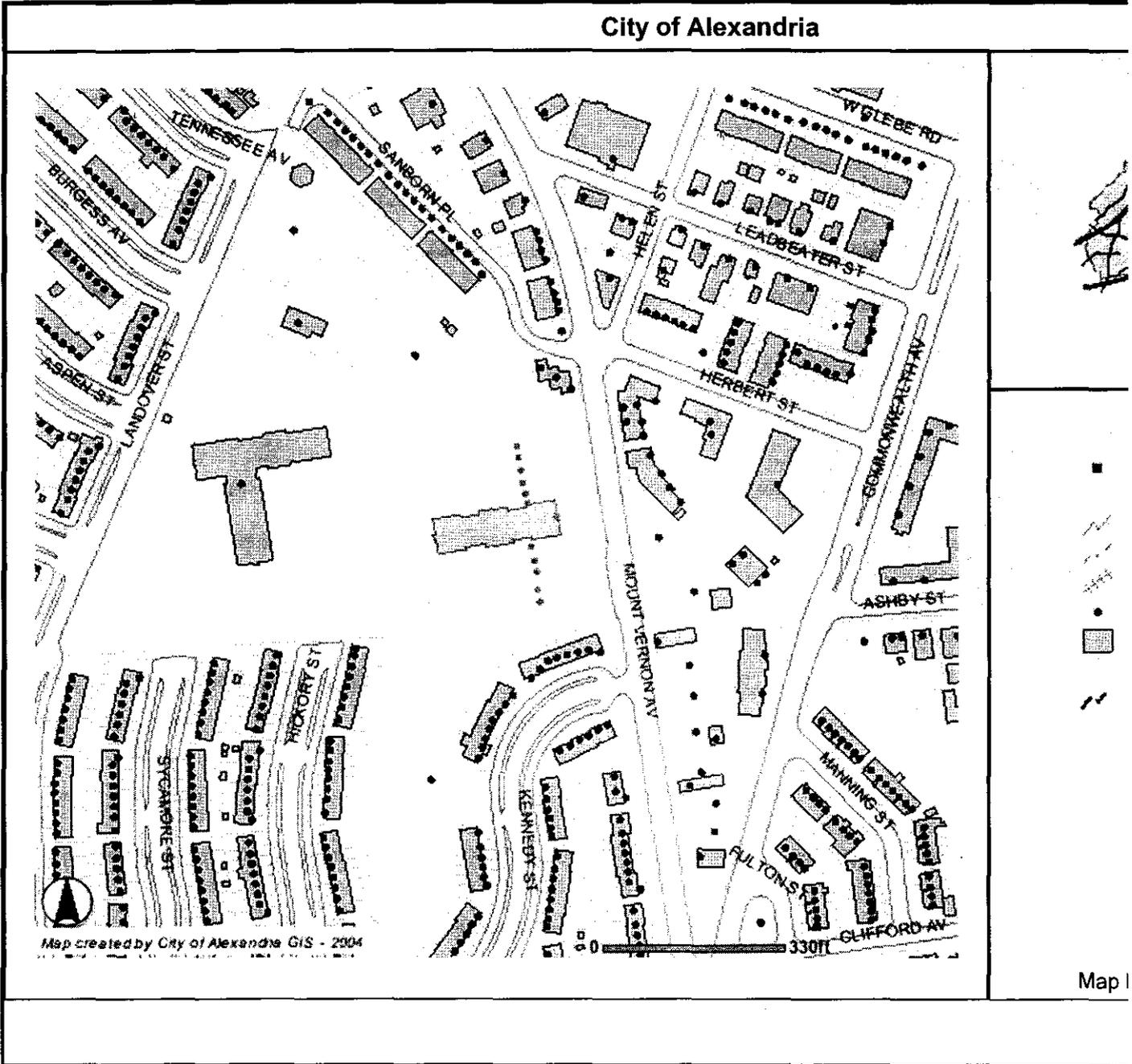
3. Hours of operation. Closing time means when the restaurant is empty of patrons.(check one)
 - Closing by 8:00 PM
 - Closing after 8:00 PM but by 10:00 PM
 - Closing after 10:00 PM but by Midnight
 - Closing after Midnight

4. Alcohol Consumption (check one)
 - High ratio of alcohol to food
 - Balance between alcohol and food
 - Low ratio of alcohol to food

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SUP2006-0065

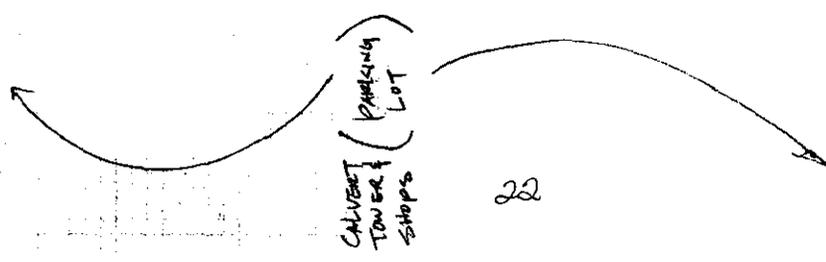
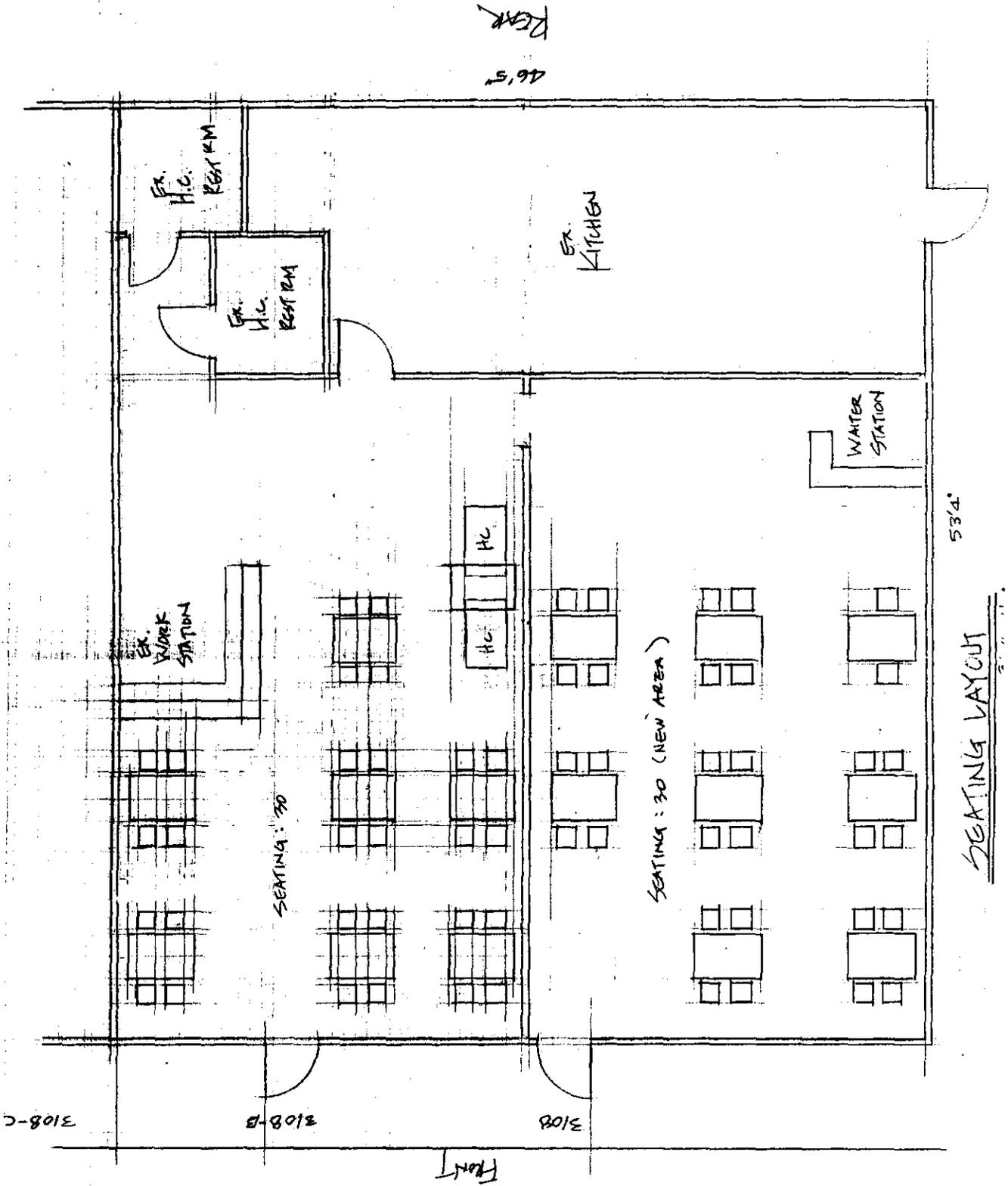
City of Alexandria



Map created by City of Alexandria GIS - 2004

Map 1

21



Del Ray Citizens Association

Established 1954
delraycitizens@yahoo.com

P.O. Box 2233, Alexandria, VA 22301
<http://www.delraycitizen.org>

September 6, 2006

PC Docket Item # 11
Case Number(s) 2006-0065

Mayor William Euille
City Hall
Alexandria, VA 22314

Subject: SUP# 2006-0065, Pho Viet at 3108 Mt. Vernon Avenue
Planning Commission Docket item # 11

Dear Mayor Euille,

I am pleased to inform you that the Land Use committee and Executive Board will recommend support for the application to expand Pho Viet restaurant as proposed to the Del Ray Citizens Association membership at the September 11 meeting.

Thank you for your consideration.

Sincerely,

Amy Slack
Co-Chair
Land Use Committee

cc:
City Council
Director of Planning and Zoning
Planning Commission

~~Enclosures~~

*Celebrating 100 years of the Town of Potomac
1908 - 2008*



APPLICATION

SPECIAL USE PERMIT

SPECIAL USE PERMIT # 2006-0065

PROPERTY LOCATION: 3108 MT. VERNON AVE. SUITE "A"
TAX MAP REFERENCE: 015.04.02.03 ZONE: CR MU/M

APPLICANT

Name: VO THIN
Address: 5745 HEMING AVE. SPRINGFIELD VA 22151

PROPERTY OWNER

Name: UNITED DOMINION REALTY TRUST, INC
Address: _____

PROPOSED USE:

RESTAURANT (PHO VIET)

[] **THE UNDERSIGNED** hereby applies for a Special Use Permit in accordance with the provisions of Article XI, Section 4-11-500 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 IV, Section 4-1404(D)(7) 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 Director of Planning and Zoning 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.

JAMES C. PAN
Print Name of Applicant or Agent
7000 VANTAGE DR.
Mailing/Street Address
ALEXANDRIA VA 22306
City and State Zip Code

James C. Pan
Signature
703-660-6120 703-660-6168
Telephone # Fax #
bcpsc@cox.net
Email address
6/20/06
Date

DO NOT WRITE IN THIS SPACE - OFFICE USE ONLY

Application Received: _____ Date & Fee Paid: \$ _____
ACTION - PLANNING COMMISSION: Unanimous consent, recommended approval 9/7/06
ACTION - CITY COUNCIL: 9/16/06 - City Council approved the PC recommendation 7-0

+ 11

Del Ray Citizens Association

9
9-16-06

Established 1954
delraycitizens@yahoo.com

P.O. Box 2233, Alexandria, VA 22301
<http://www.delraycitizen.org>

September 6, 2006

Mayor William Euille
City Hall
Alexandria, VA 22314

Subject: SUP# 2006-0065, Pho Viet at 3108 Mt. Vernon Avenue
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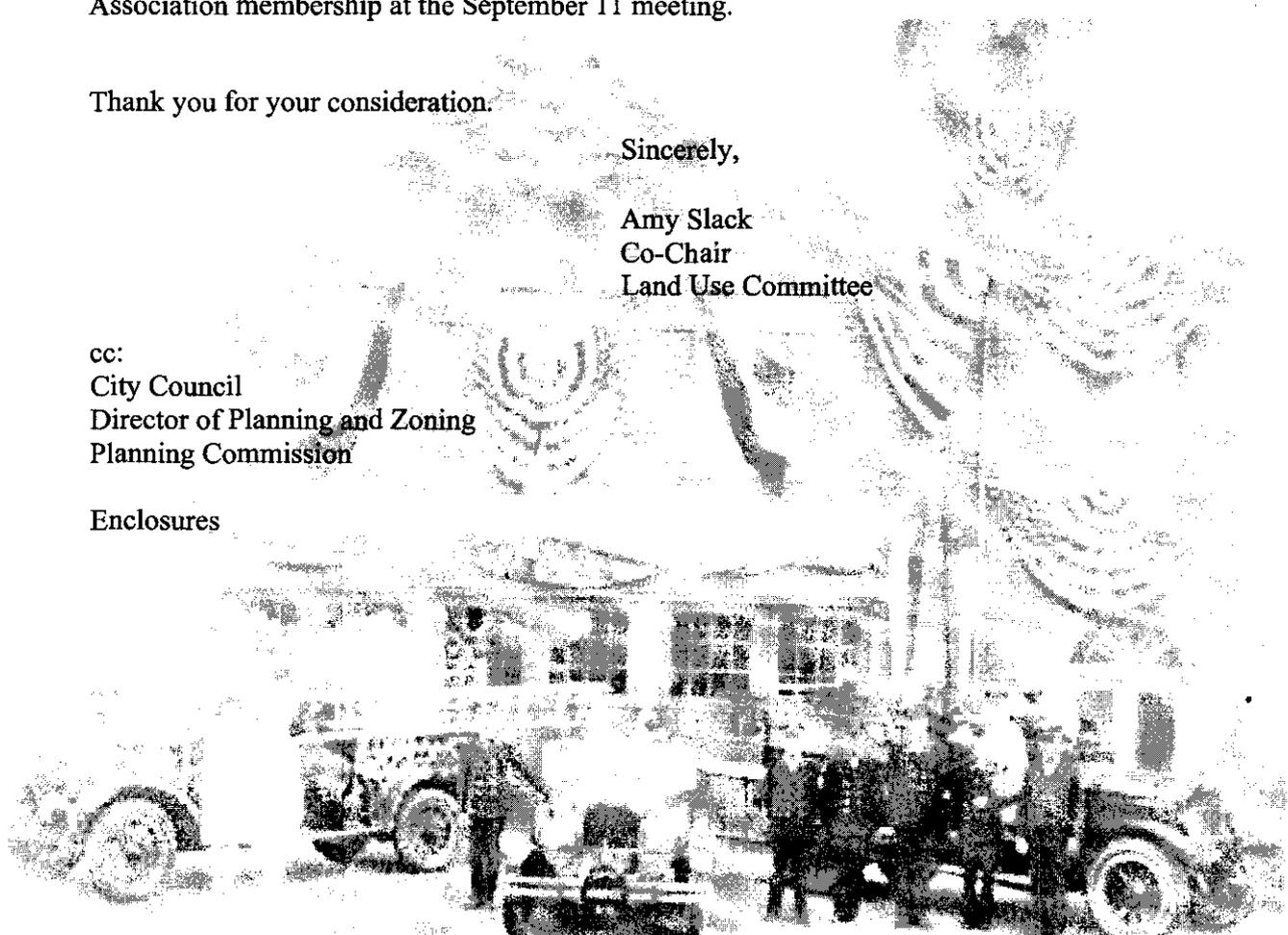
Thank you for your consideration.

Sincerely,

Amy Slack
Co-Chair
Land Use Committee

cc:
City Council
Director of Planning and Zoning
Planning Commission

Enclosures



*Celebrating 100 years of the Town of Potomac
1908 - 2008*