

EXHIBIT NO. 1

3  
5-12-01

Docket Item #2  
SPECIAL USE PERMIT #2001-0016

Planning Commission Meeting  
May 1, 2001

**ISSUE:** Consideration of a request for a special use permit to change the ownership and amend the hours of operation of an existing restaurant.

**APPLICANT:** R. P. Kapani

**LOCATION:** 407 East Braddock Road  
Subway Restaurant

**ZONE:** CSL/Commercial service low

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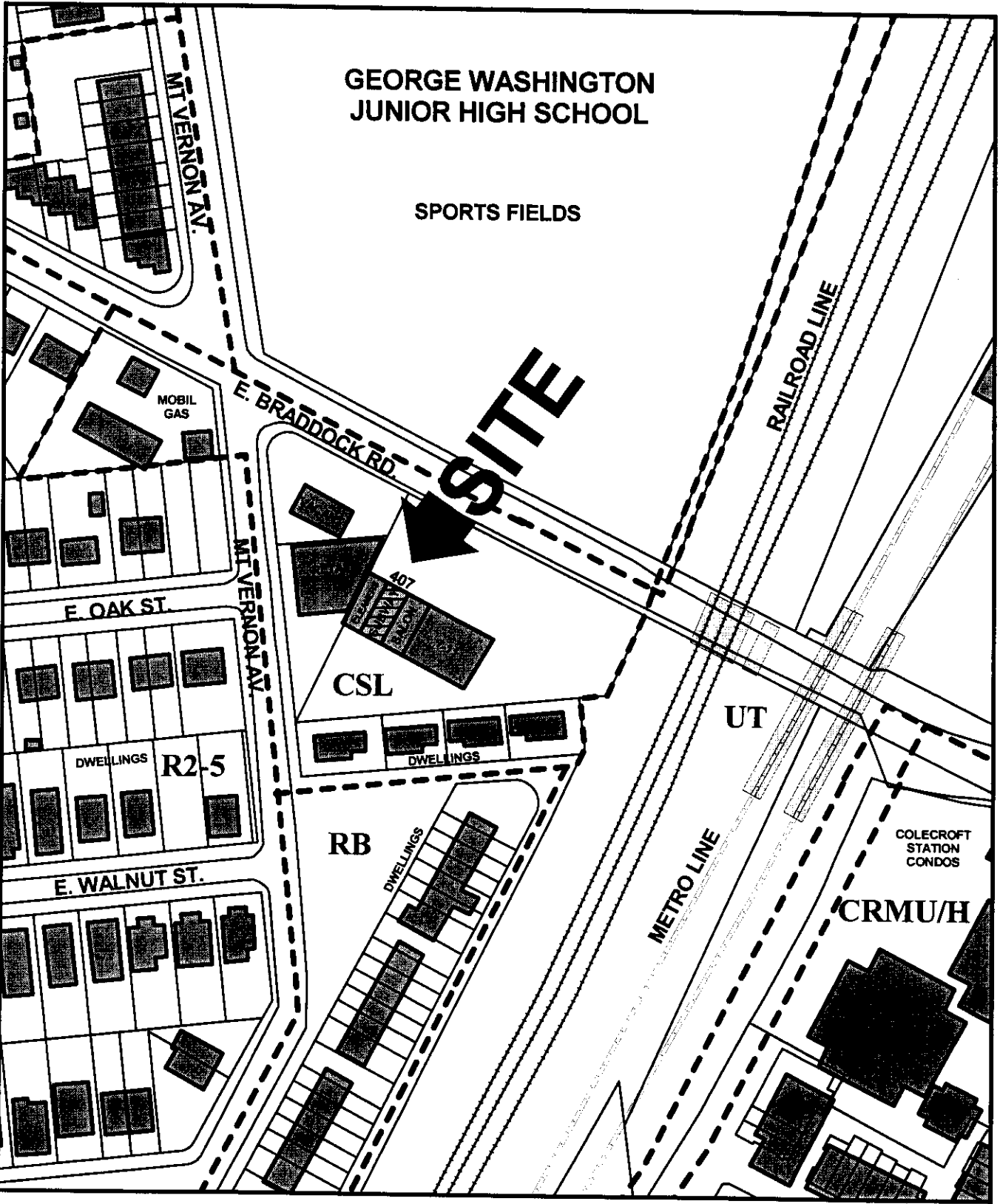
**PLANNING COMMISSION ACTION, MAY 1, 2001:** By unanimous consent, the Planning Commission recommended approval of the request, subject to compliance with all applicable codes, ordinances and staff recommendations.

Reason: The Planning Commission agreed with the staff analysis.

**GEORGE WASHINGTON  
JUNIOR HIGH SCHOOL**

SPORTS FIELDS

**SITE**



**SUP #2001-0016**

**05/01/01**



STAFF RECOMMENDATION:

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

1. **CONDITION DELETED BY STAFF:** The applicant shall provide two trash containers in the parking lot. (T&ES) (SUP #1500) (T&ES)
2. **CONDITION AMENDED BY STAFF:** The applicant shall pick up trash daily Litter on the site and on public rights-of-way and spaces adjacent to or within 75 feet in either direction of the property on the public right-of-way 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. (T&ES) (SUP #1500) (P&Z)
3. The hours of operation shall be restricted to those requested by the applicant, i.e., 11:00 A.M. to 11:00 P.M., seven days per week. (P&Z) (SUP #1500)
4. **CONDITION AMENDED BY STAFF:** The applicant shall provide refuse collection on days of operation: Trash and garbage shall be placed in sealed containers which do not allow odors to escape and shall be stored inside or in a closed container which does not allow invasion by animals. No trash and debris shall be allowed to accumulate on-site outside of those containers. (PC) (SUP #1500) (P&Z)
5. **CONDITION AMENDED BY STAFF:** The special use permit be limited to the applicant and the sublessee granted to the applicant only or to any business or entity in which the applicant has a controlling interest. (CC) (SUP #1500) (P&Z)
6. **CONDITION ADDED BY STAFF:** A maximum of 18 seats shall be provided inside the restaurant. (P&Z)
7. **CONDITION ADDED BY STAFF:** Outside dining facilities are permitted subject to approval by the Director of Planning and Zoning as to the location, size and suitability of the dining area. (P&Z)
8. **CONDITION ADDED BY STAFF:** The hours of operation shall be limited from 7:00 a.m. to 11:00 p.m. daily. (P&Z)

9. **CONDITION ADDED BY STAFF: The applicant shall post the hours of operation at the entrance to the restaurant. (P&Z)**
10. **CONDITION ADDED BY STAFF: No live entertainment shall be provided at the restaurant. (P&Z)**
11. **CONDITION ADDED BY STAFF: No amplified sound shall be audible at the property line. (P&Z)**
12. **CONDITION ADDED BY STAFF: No delivery service shall be provided. (P&Z)**
13. **CONDITION ADDED BY STAFF: No alcohol service in the restaurant and no off-premise sales of alcohol are permitted. (P&Z)**
14. **CONDITION ADDED BY STAFF: No food, beverages, or other material shall be stored outside. (P&Z)**
15. **CONDITION ADDED BY STAFF: The applicant shall install at least one trash container inside the restaurant for customers' use. (P&Z)**
16. **CONDITION ADDED BY STAFF: Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers. (T&ES)**
17. **CONDITION ADDED BY STAFF: The applicant shall control cooking odors and smoke from the property to prevent them from becoming a nuisance to neighboring properties, as determined by the Department of Transportation and Environmental Services. (T&ES)**
18. **CONDITION ADDED BY STAFF: The applicant shall contact the Crime Prevention Unit of the Alexandria Police Department for a security survey and a robbery awareness program for all employees. (Police)**

19. **CONDITION ADDED BY STAFF:** The Director of Planning and Zoning shall review the special use permit one year after approval and shall docket the matter for consideration by the Planning Commission and City Council if (a) there have been documented violations of the permit conditions, (b) the director has received a request from any person to docket the permit for review, 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)

DISCUSSION:

1. The applicant, R.P. Kapani, requests special use permit approval to change the ownership and to amend the hours of operation of an existing Subway restaurant located at 407 East Braddock Road.
2. The subject property is part of one lot of record with approximately 233 feet of frontage on East Braddock Road, and a total lot area of approximately 36,997 square feet. The site is developed with a one story linear shopping center, owned by the Southland Corporation, that contains approximately 5,064 square feet and is divided into four commercial spaces. The Subway restaurant is located at the western end of the shopping center, between Pauline's Silver Shears beauty salon and Care Bear Cleaners. A 7-Eleven store is located on the east end of the stores.

To the north of the site is the George Washington Middle School. To the east is the Braddock Road Metro Station and Colecroft development. To the west is a one story building occupied by Kaufman's office equipment. To the south are single family residences.

3. On September 18, 1982, City Council granted Special Use Permit #1500 to C. David Wolff for Subway for the operation of a restaurant.
4. As approved by Council, the applicant operates a Subway restaurant with 18 seats.
5. As part of its inspection of fast food restaurants during the past year, staff determined that the restaurant opens earlier than currently permitted and issued a citation for the violation. The applicant filed this request to amend the hours of operation to allow it to open four hours earlier than currently permitted, at 7:00 a.m., rather than 11:00 a.m. The restaurant's approved hours of operation are 11:00 a.m. to 11:00 p.m. daily.
6. The applicant also requests permission to change the ownership of the approval from Mr. Wolff to himself.
7. No change is proposed to the closing hour and no other changes to the operation of the restaurant are requested by the applicant.

8. This site has been the subject of a series of staff discussions which began as part of the planning of improvements for this part of East Braddock Road. Recently, staff from P&Z and T&ES met with representatives of Southland Corporation, the owner of the property, to discuss ways to upgrade the appearance of the site, and make it more suitable for the pedestrian traffic in the area. Staff hopes over the next several months to develop an agreeable plan for the site to include landscaping, facade improvements, dumpster relocation and screening and ways to have the Southland site and property immediately to the west appear more coordinated than they do now.
9. Zoning: The subject property is located in the CSL/Commercial service low zone. Section 4-303(Y) of the zoning ordinance allows a restaurant in the CSL zone only with a special use permit.
10. Master Plan: The proposed use is consistent with the Braddock Road Small Area Plan chapter of the Master Plan which designates the property for commercial and service uses.

STAFF ANALYSIS:

Staff has no objection to the applicant's request to amend the hours of operation of the Subway restaurant located at 407 East Braddock. With the exception of the violation regarding the hours of operation, staff knows of no other violations or complaints from area residents or other City departments regarding the operation of the restaurant. In fact, staff has received a telephone call from a restaurant patron supporting the applicant's request for earlier hours.

Staff has included some standard restaurant conditions missing from the existing permit and recommends the deletion of Condition #1 which requires the applicant to provide two trash containers in the parking lot. T&ES staff have advised us that they did not observe a litter problem in the parking lot or along Braddock Road and noted that a City standard trash container is located adjacent to the shopping center by the bus stop. 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;  
Kathleen Beeton, Urban Planner.

CITY DEPARTMENT COMMENTS

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

Transportation & Environmental Services:

- C-1 That the applicant comply with the City of Alexandria's Noise Control Code, Chapter 11, Section 5, which sets the maximum permissible noise level as measured at the property line.
- R-1 The applicant shall control odors and smoke from the property to prevent them from becoming a nuisance to neighboring properties, as determined by the Department of Transportation and Environmental Services.
- R-2 Kitchen or other types equipment shall not be cleaned outside, nor shall any cooking residue or other wastes be washed into the streets, alleys, sidewalks or storm sewers.
- R-3 That all loudspeakers be prohibited from the exterior of the building.

Code Enforcement:

- C-1 A rodent control plan shall be submitted to this office for review and approved. This plan shall include the following components:
  - (a) Trash storage, control and removal measures.
  - (b) Foodstuff storage
  - (c) Rodent baiting

Health Department:

- F-1 No objection.



Police Department:

- R-1 Security survey for the business.
- R-2 Robbery awareness program for all employees.
- F-1 The applicant is not requesting an "ABC" permit. The police department concurs with this.

APPLICATION for SPECIAL USE PERMIT # 2001-0016

[must use black ink or type]

PROPERTY LOCATION: 407 E BRADDOCK ROAD ALEX.

TAX MAP REFERENCE: 53.04-02-06<sup>02</sup> ZONE: CSL

APPLICANT Name: R. P. KAPANI

Address: ~~XXXX~~ Same

PROPERTY OWNER Name: R. P. KAPANI

Address: Same

PROPOSED USE: RESTAURANT - Opening hours: BETWEEN 7AM-11:00PM -  
OPTIONAL DEPENDIN ON THE  
PUBLIC NEED/DEMAND.

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.

R. P. KAPANI  
Print Name of Applicant or Agent

R. Kapani  
Signature

407 E BRADDOCK ROAD (703) 968-9058 (703) 968-9477  
Mailing/Street Address Telephone # Fax #

ALEXANDRIA VA 22314  
City and State Zip Code 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: SUBLESEE 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.

Owner - Corporation  
President - 100% owner

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)

The Hours of operations presently are 10:00 AM - 10:00 PM. Since the business was bought by the present owner (applicant) in 1994 <sup>also</sup> before  
It is now understood that the current SUP allows opening hours as 11:00 AM - which is not suitable per the public need/demand. Therefore, this request for allowing operations hours between - 7:00 AM - 11:00 PM - with flexibility for the owner to adopt the operations hours per the public need/demand - for the whole week i.e. Monday - Sunday.

**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):

daily ~~patrons~~ customers = 200  
lunch time peak period

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

2-3 total

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

Day:  
Mon - Sunday

Hours:  
Beginning of and lunch  
7:00 AM - 11:00 PM

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

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

\_\_\_\_\_  
\_\_\_\_\_

B. How will the noise from patrons be controlled?

N/A

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

Nil

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?

same as existing

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

same as existing

C. How often will trash be collected?

removed by 7-11 / weekly

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:

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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?

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**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.

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**PARKING AND ACCESS REQUIREMENTS**

14. Please provide information regarding the availability of off-street parking:

A. How many parking spaces are required for the proposed use pursuant to section 8-200 (A) of the zoning ordinance?

\_\_\_\_\_

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? \_\_\_\_\_

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

C. Where are off-street loading facilities located? \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



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

weekly - afternoon

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

weekly

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?

/

**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?

about 600 sq. ft. (existing) + \_\_\_\_\_ sq. ft. (addition if any) = 600 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: \_\_\_\_\_



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

**NOTICE OF VIOLATION**

YOU ARE CHARGED WITH VIOLATING THE  
ALEXANDRIA, VIRGINIA ZONING ORDINANCE

Feb 02 2001 Friday 11:05am  
Date ticket served Day of Week Time AM/PM

Location of Violation: 407 E. Braddock

Ord. Section: 11-505

Description of Violation: Condition #3  
(hours of operation)  
- Store opening at 10am  
instead of 11am M-Friday

Penalty \$: 50.00

1st  2nd  
 3rd/MORE

IF THE VIOLATION IS NOT CORRECTED BY  
Feb 12 2001 AN ADDITIONAL MONETARY  
PENALTY WILL BE ASSESSED.

*Wanda S. Johnson* 102  
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

NOTICE SERVED ON: S \*1500

NAME: LAST FIRST MIDDLE

PROPERTY OWNER  
 COMPANY Subway  
NAME

OTHER POSITION

407 E Braddock  
ADDRESS  
Alexandria Va  
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 02-02-01

**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

Z-01 TICKET NO. 2098 ✓

**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 703-838-4688

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 \_\_\_\_\_

APPLICATION for SPECIAL USE PERMIT # 2001-0016

[must use black ink or type]

PROPERTY LOCATION: 407 E BRADDOCK ROAD ALEX.

TAX MAP REFERENCE: 53.04-02-06<sup>02</sup> ZONE: CSL

APPLICANT Name: R. P. KAPANI

Address: ~~407 E~~ Same

PROPERTY OWNER Name: R. P. KAPANI

Address: Same

PROPOSED USE: SUBWAY RESTAURANT  
Opening hours: BETWEEN 7AM-11:00PM-  
OPTIONAL DEPENDIN ON THE  
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R. P. KAPANI  
Print Name of Applicant or Agent

R. Kapani  
Signature

407 E BRADDOCK ROAD  
Mailing/Street Address

(703) 968-9058 (703) 968-9471  
Telephone # Fax #

ALEXANDRIA VA 22314  
City and State Zip Code

\_\_\_\_\_  
Date

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

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

ACTION - PLANNING COMMISSION: 5-1-01 Recommended Approval UC

ACTION - CITY COUNCIL: 5/12/01PH-- CC approved the Planning Commission recommendation.