

EXHIBIT NO. 1

5
9-15-01

Docket Item #6
SPECIAL USE PERMIT #2001-0037

Planning Commission Meeting
September 4, 2001

ISSUE: Consideration of a request for a special use permit to operate a restaurant.

APPLICANT: Subway Real Estate Corporation
by Christopher Decre

LOCATION: 3821 Mt. Vernon Avenue
Arlandria Shopping Center
Subway Sandwich Shop

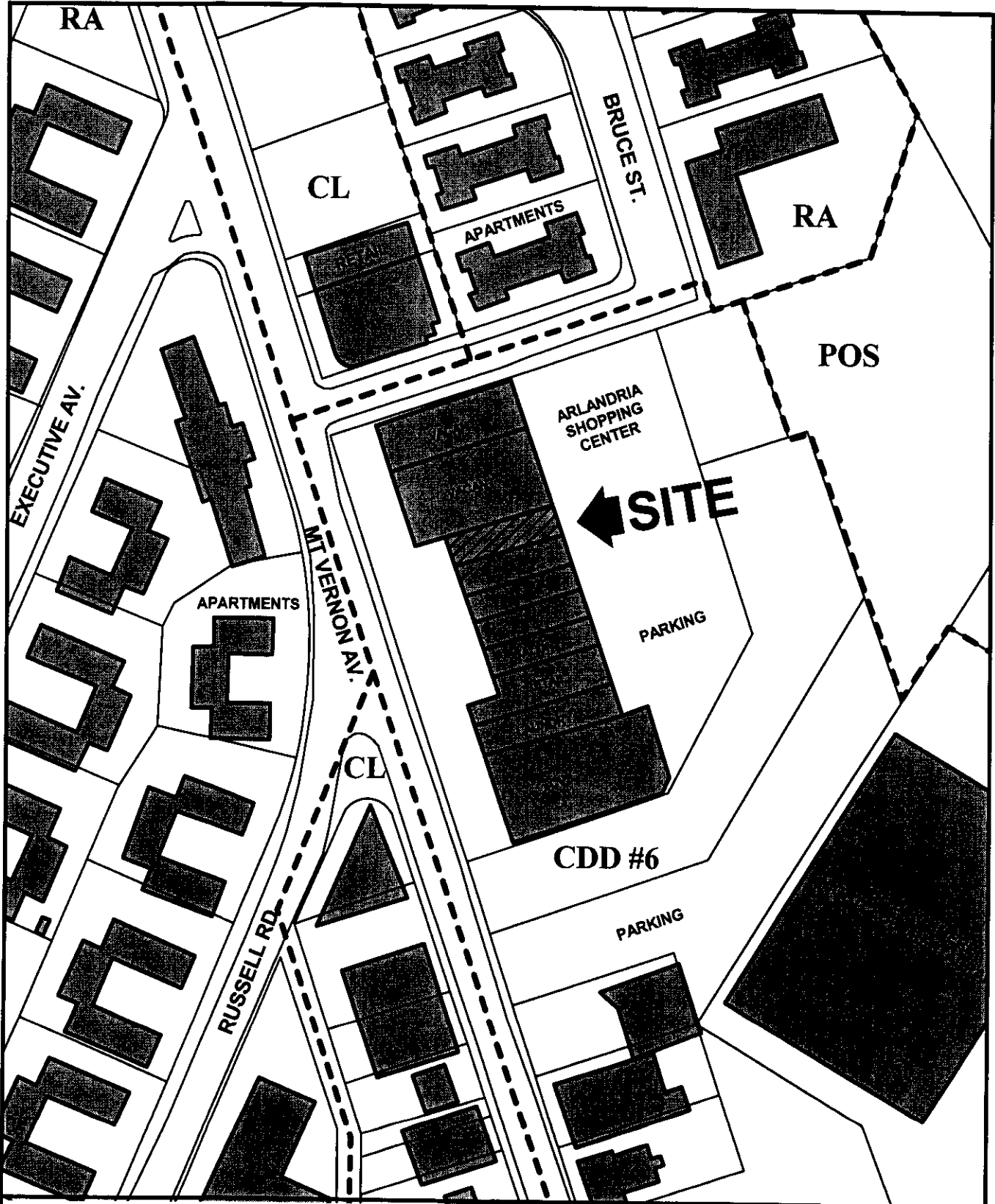
ZONE: CDD-6/Coordinated Development District, Arlandria Center-Berkey Photo

PLANNING COMMISSION ACTION, SEPTEMBER 4, 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.

PLANNING COMMISSION ACTION, JUNE 5, 2001: The Planning Commission noted the deferral of the request.

Reason: The applicant failed to comply with the requirements for legal notice.



SUP #2001-0037

09/04/01



STAFF RECOMMENDATION:

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

1. The special use permit shall be granted to the applicant only or to any business or entity in which the applicant has a controlling interest. (P&Z)
2. Seating shall be provided for no more than 45 patrons and a minimum of 35 patrons. (P&Z)
3. Outside dining may be provided subject to a plan 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. The outdoor seating area shall be cleaned and washed at the close of each day of operation. No seating shall encroach on a public right-of-way. (P&Z)
4. No live entertainment shall be provided at the restaurant. (P&Z)
5. The hours of operation shall be limited to the following:

Monday through Thursday	7:00 a.m. - 10:00 p.m.
Friday and Saturday	7:00 a.m. - Midnight
Sundays	10:00 a.m. - 10:00 p.m.

(P&Z)
6. Meals ordered before the closing hour may be served, but no new patrons may be admitted after the closing hour, and all patrons must leave by one hour after the closing hour. (P&Z)
7. The applicant shall post the hours of operation at the entrance to the restaurant. (P&Z)
8. Alcoholic beverages are not permitted. (P&Z)
9. No food, beverages, or other material shall be stored outside. (P&Z)

10. 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. (P&Z)
11. 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)
12. All disposable paper goods or drink containers shall be clearly marked so that the source of any litter can be identified. (P&Z)
13. Kitchen equipment or other types of equipment shall not be cleaned outside, nor shall any cooking residue or other wastes be washed into the streets, alleys, sidewalks or storm sewers. (T&ES)
14. The applicant shall obtain, at their expense, one Model SD-42 Ironsides series trash container to be placed on the southeast corner of Mount Vernon Avenue at Bruce Street. The applicant shall contact T&ES Solid Waste Division at 703-751-5130 for information. (T&ES)
15. 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)
16. No amplified sound shall be audible at the property line. (P&Z)
17. 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 prior to operation. (Police)

SUP #2001-0037
3821 Mt Vernon Av
Arlandria Shopping Center; Subway

18. 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, (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)

Staff Notes: In accordance with section 11-506(c) of the zoning ordinance, construction or operation shall be commenced and diligently and substantially pursued within 18 months of the date of granting of a special use permit by City Council or the special use permit shall become void.

DISCUSSION:

1. The applicant, Subway Real Estate Corporation, owned by Doctor's Associates Inc., and represented by Christopher Decre, requests special use permit approval for the operation of a Subway restaurant located at 3821 Mount Vernon Avenue, within the Arlandria Shopping Center.
2. The subject shopping center site contains approximately 537 feet of frontage on Mount Vernon Avenue and 377 feet of frontage on Bruce Street. The site consists of four parcels with a total lot area of 202,776 square feet (4.6 acres). The site is developed with an existing small-scale shopping center. Access to the property is from both Mount Vernon Avenue and Bruce Street.

To the north of the site are retail establishments including Lillian's restaurant, to the south are retail establishments including Blockbuster Video, to the east is Four Mile Run Park, and to the west are the Presidential Greens Apartments.

3. On June 6, 2000, the Planning Commission granted a development site plan request (DSP#2000-0009) which included changes to the existing shopping center building and parking. The proposed plan includes removing a portion of the building facade fronting Mount Vernon Avenue in order to allow for an additional row of parking. The building facade would then be renovated. The developer has obtained final site plan and building permit approvals for these improvements.
4. The proposed restaurant will occupy 1,530 square feet of the existing shopping center. Sandwiches and salads as well as bottled and fountain drinks will be served. No alcoholic beverages will be offered.
5. The applicant expects no more than 20 patrons per hour with peak customer hours occurring during lunchtime between the hours of 11:00 a.m. and 3:00 p.m. A minimum of two staff people will operate the restaurant with no more than six staff people per hour during peak hours.

6. Zoning Ordinance Section 8-200(8) requires one parking space per four seats. The applicant will be providing 42 seats for customers. The applicant therefore needs to provide 11 parking spaces. Currently there are 275 parking spaces provided in the shopping center. A total of 297 parking spaces will be provided with the completion of the improvements previously approved by the Planning Commission (DSP#2000-0009). Therefore, adequate parking will be provided on-site.
7. Loading will occur twice a week from 10:00 a.m. to 4:00 p.m. One off-street loading space is provided for the applicant and other tenants in the rear of the shopping center.
8. The application indicates that three to four 35 gallon bags of garbage per day will be generated and stored awaiting garbage pick-up in the dumpster area outside of the store to the rear of the building. Food waste and cardboard will constitute the majority of the trash generated.
9. An alarm system and video cameras will be utilized on-site for security purposes. A store manager with the ability to take appropriate corrective action will also be on duty at all times to assess any problems.
10. Zoning: The subject property is located in the CDD #6 zone. Without a CDD special use permit, CG regulations apply. Section 4-403 (Y) of the Zoning Ordinance allows a restaurant in the CG zone only with a special use permit.
11. Master Plan: The proposed use is consistent with the Potomac West chapter of the Master Plan which designates the property for a mix of commercial and residential use. The Potomac West Small Area Plan encourages the support of neighborhood oriented, small-scale retail and coordinated mixed use development. The CDD designation specifically demarcates the Arlandria Shopping Center and the adjacent Berkey photo site with the intent of fostering development / redevelopment in accordance with a coordinated plan for mixed-use development.

STAFF ANALYSIS:

Staff has no objection to the proposed restaurant use located at 3821 Mount Vernon Avenue. Staff believes that the proposed restaurant use is appropriate for a neighborhood commercial shopping center and will be compatible with the other existing retail and residential uses in the immediate area.

On October 31, 2000, City Council formed the Upper Potomac West Task Force. This citizen and property owner group was created to help guide planning and redevelopment in the area of the City north of Glebe Road. One area of focus for the group is the revitalization and support of the Mount Vernon corridor. The Subway restaurant is also a compatible addition to other neighborhood eateries and retail establishments in the Mount Vernon Avenue corridor.

Although the applicant has not requested permission for outdoor seating, staff and the community support opportunities for outdoor dining in the neighborhood because it provides an amenity and creates a positive element of activity and interest for the restaurant's residential and commercial neighbors. Although the applicant has stated that it is not interested, staff recommends that the applicant be permitted to offer outdoor dining so long as a plan for the seating is reviewed and approved by the Director of Planning and Zoning, pedestrian access is provided past the seating, and the seating does not encroach on a public right-of-way.

Staff has included conditions to insure that the Subway restaurant remains a complimentary addition to the neighborhood. These include a review of the special use permit after the restaurant has been operational for one year so that any problems that develop can be addressed. 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;
Helena Soprano, Urban Planner.

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.
- R-2 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.
- R-3 The applicant shall obtain, at their expense, one Model SD-42 Ironsides series trash container to be placed on the southeast corner of Mount Vernon Avenue at Bruce Street. Contact T&ES Solid Waste Division (703-751-5130) for information.

Code Enforcement:

- C-1 The proposed space is classified an assembly use and as such is subject to the mixed use provisions of BOCA 313.
- C-2 This use represents a change of use and therefore shall need a new certification or occupancy.
- C-3 New construction must comply with the current edition of the Uniform Statewide Building Code (USBC).
- C-4 Alterations to the existing structure must comply with the current edition of the Uniform Statewide Building Code (USBC).
- C-5 Construction permits are required for this project. Plan shall accompany the permit application that fully detail the construction as well as layouts and schematics of the mechanical, electrical, and plumbing systems.
- C-6 A Fire Prevention code permit is required for this operation. An egress plan shall accompany plan shall accompany the permit application.

- C-7 A rodent control plan shall be submitted to this office for preview and approval. The plan shall include the following elements:
- a. Food stuff storage
 - b. Trash storage and removal
 - c. Rodent baiting

Health Department:

- C-1 An Alexandria Health Department Permit is required for all regulated facilities.
- C-2 Five sets of plans are to be submitted to and approved by this department prior to construction. Plans must comply with the Alexandria City Code, Title 11, Chapter 2, Food and Food Establishments. There is a \$135.00 fee for review of plans for food facilities.
- C-3 Permits must be obtained prior to operation.
- C-4 This facility must comply with the Alexandria City Code, Title 11, Chapter 10, Smoking Prohibitions.
- C-5 Certified Food Managers must be on duty during all hours of operation.
- C-6 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 Crime Prevention Unit of the Alexandria Police Department regarding a security survey for the business. This is to be completed prior to the business opening.
- R-2 Recommend a robbery awareness program for all employees.
- F-1 The applicant is not seeking an A.B.C. permit. The Police Department concurs with this.

APPLICATION for SPECIAL USE PERMIT # 2001-0037

[must use black ink or type]

PROPERTY LOCATION: 3821 Mount Vernon Ave
(ARLANDRIA SHOP. CTR.)

TAX MAP REFERENCE: 7.00-09-12, 10 & 11 ZONE: CDD #6 (CG)

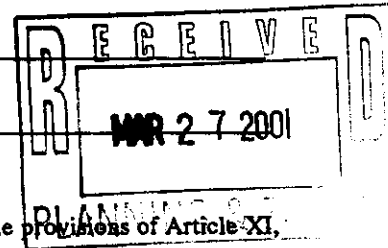
APPLICANT Name: Subway Real Estate Corp % Subway Development Corp

Address: 8280 Greensboro Dr #110 McLean, VA 22102

PROPERTY OWNER Name: Arlandria Center LLC % Stephen Weinstock

Address: 3618 N. Nelson St. Arlington, VA 22207

PROPOSED USE: Subway® Sandwich Shop.



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.

Christopher Deere
Print Name of Applicant or Agent
Subway Development Corp.
8280 Greensboro Dr. #110
Mailing/Street Address

[Signature]
Signature
703-790-1010 703-790-1119
Telephone # Fax #

McLean, VA 22102
City and State Zip Code

March 26, 2001
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.

Subway Real Estate Corp
Owned by Doctor's Associates, Inc)

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

The request for the permit is to allow a Subway® sandwich shop to be built in the Mount Vernon Village Center. The store will sell the standard fare of a Subway® franchise outlet, which consists mainly of sub style sandwiches and salads. Additionally, soft drinks, chips, cookies and other desert items will be sold. We would expect an average of 1000 to 1500 customers a week. The hours of operation will range from 7am until midnight, 7 days a week. There will be no more than 6 and no less than 2 staff members on duty at anytime. Parking is provided for both staff and patrons in the main parking lot of the shopping center. There will not be any noise generated from our use.

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).

No more than 20 patrons per hour
(11am to 3pm will be peak hours)

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

No more than 6 staff per hour
(11am to 3pm will be peak hours)

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

Day:

Hours:

<u>Sunday</u>	<u>10a - 10p</u>
<u>Mon-Thurs</u>	<u>7a - 10p</u>
<u>Fri - Sat</u>	<u>7a - 12 midnight</u>
_____	_____
_____	_____

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

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

Minimal noise from patron conversation. Equipment
is not audible from outside of premises.

B. How will the noise from patrons be controlled?

Manager on duty will asses any noise problems and take corrective action.

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

No potential odor problems.

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?

Cardboard boxes and patrons trash

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

3-4 35 gallon bags per day.

C. How often will trash be collected?

Twice a week

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

Staff will pick up litter on a daily basis in front of store and by dumpster area.

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?

Alarm system, video cameras and managers
on duty at all times

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?

11

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

259 Standard spaces

25 Compact spaces

7 Handicapped accessible spaces.

4 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? n/a

B. How many loading spaces are available for the use? 1

C. Where are off-street loading facilities located? Rear of center

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

10 am - 4 pm

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

2 per week

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? _____ square feet.

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

1530 sq. ft. (existing) + 0 sq. ft. (addition if any) = 1530 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: Mt Vernon Village 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: 42 At a bar: _____ Total number proposed: _____

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:

Sub sandwiches and salads. Cookies. Bottle
and fountain drinks.

4. The restaurant will offer the following service (check items that apply):

_____ table service _____ bar carry-out _____ delivery

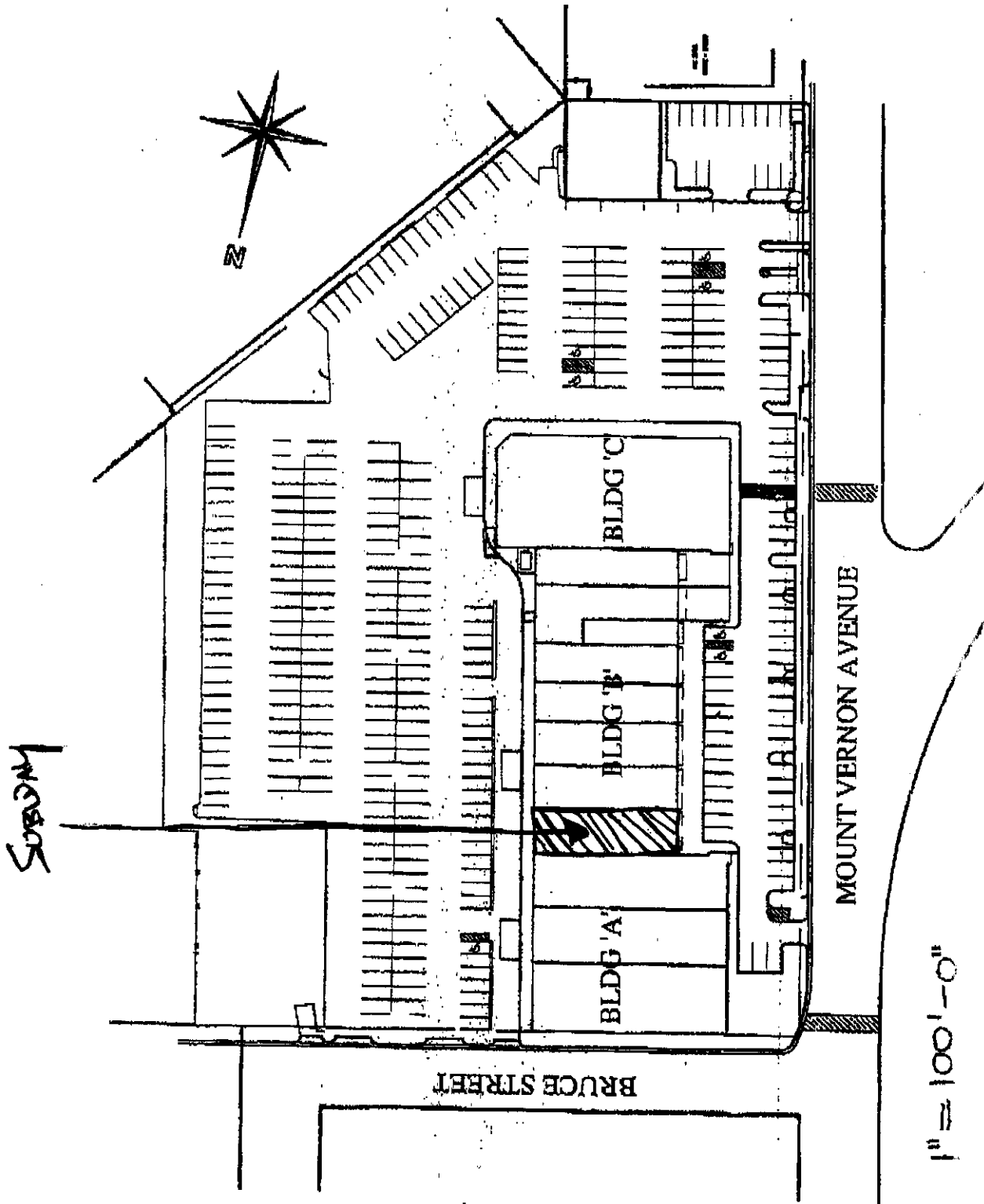
5. If delivery service is proposed, how many vehicles do you anticipate? _____

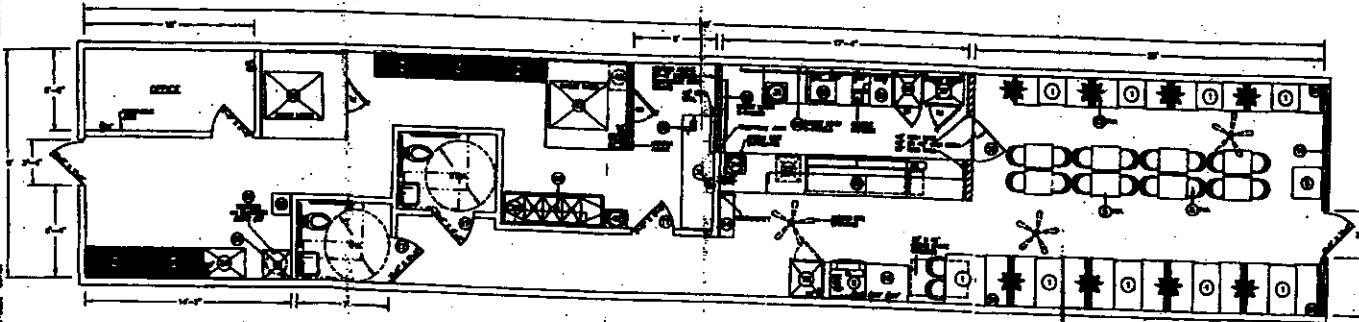
Will delivery drivers use their own vehicles? ___ Yes. ___ No.

6. Will the restaurant offer any entertainment (i.e. live entertainment, large screen television, video games)? ___ Yes. No.

If yes, please describe: _____

Sup 2001-0037





<p>THESE PLANS, TO BE REVIEWED, ARE FOR CONCEPT ONLY AND ARE NOT TO BE CONSIDERED AS FINAL APPROVAL.</p>	
<p>STORE CONCEPT</p>	
<p>SPEC</p>	
<p>3821 MOUNT VERNON AVE ALEXANDRIA, VA</p>	
<p>LARRY FELDMAN</p>	
<p>MARCH 28, 2001</p>	
<p>SCOTT GOLDIN</p>	
<p>NOTE: THESE PLANS ARE FOR REVIEW ONLY AND ARE NOT TO BE CONSIDERED AS FINAL APPROVAL.</p>	

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APPLICATION for SPECIAL USE PERMIT # 2001-0037 5

[must use black ink or type]

PROPERTY LOCATION: 3821 Mount Vernon Ave
(ARLANDRIA CENTER SHOP STOP)

TAX MAP REFERENCE: 7.00-09-1, 2, 10 & 11 ZONE: CDD #6 (CG)

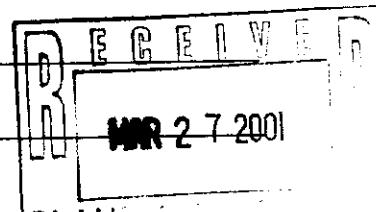
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Christopher Decre
Print Name of Applicant or Agent
Subway Development Corp.
8280 Greensboro Dr #110
Mailing/Street Address

[Signature]
Signature

703-790-1010 703-790-1119
Telephone # Fax #

McLean, VA 22102
City and State Zip Code

March 26, 2001
Date

DO NOT WRITE BELOW THIS LINE - OFFICE USE ONLY

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

ACTION - PLANNING COMMISSION: 9/4/01 RECOMMENDED APPROVAL UC

ACTION - CITY COUNCIL: 9/15/01 PH--CC approved the Planning Commission recommendation.