

EXHIBIT NO. 1

8
9-15-01

Docket Item #9
SPECIAL USE PERMIT #2001-0062

Planning Commission Meeting
September 4, 2001

ISSUE: Consideration of a request for a special use permit to change the ownership of a restaurant.

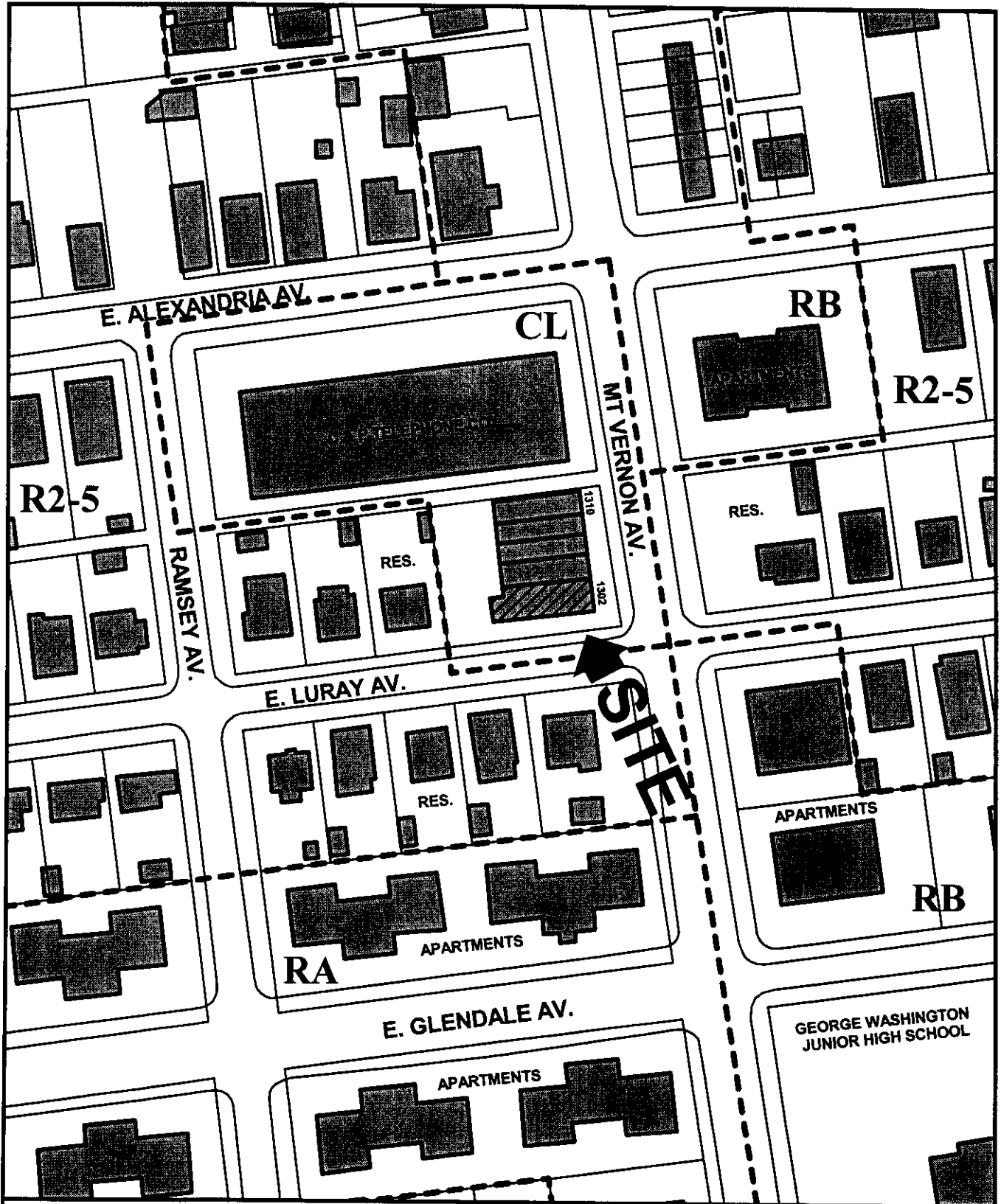
APPLICANT: Ewe Swee Goh

LOCATION: 1302 Mount Vernon Avenue
South China Restaurant

ZONE: CL/Commercial Low

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.



SUP #2001-0062

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 or to any business or entity in which the applicant has a controlling interest. (P&Z)(SUP #96-0118)
2. Condition deleted. (P&Z) (SUP #96-0118)
3. All landscaping shall be properly maintained. (P&Z) (SUP #96-0118)
4. Condition deleted. (P&Z) (SUP #96-0118)
5. Condition deleted. (P&Z) (SUP #96-0118)
6. The seating capacity shall be limited to 30. (P&Z) (SUP #2000-003)
7. No outside dining facilities shall be located on the premises. (P&Z) (SUP #96-0118)
8. The hours which the business is open to the public shall be restricted to between 11:00 a.m. to 11:00 p.m. daily. (P&Z) (SUP #96-0118)
9. The applicant shall post the hours of operation at the entrance to the restaurant. (P&Z) (SUP #96-0118)
10. No live entertainment shall be provided at the restaurant. (P&Z) (SUP #96-0116)
11. Alcoholic beverages may be sold for on-premises consumption only. (P&Z) (SUP #96-0116)
12. 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) (SUP #96-0118)
13. Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers. (T&ES) (SUP #96-0118)

14. Delivery shall be limited to one vehicle only. Food delivery personnel shall enter and exit the parking lot only from Mt. Vernon Avenue when making food deliveries. Delivery vehicles shall park in the parking lot only, and shall not park in the public streets. (P&Z) (SUP #96-0118)
15. The applicant shall clean up the area at the rear of the restaurant and remove all debris by October 21, 1996 or within thirty days of special use permit approval, whichever date is later. (P&Z) (SUP #96-0118)
16. **CONDITION RETAINED BY STAFF**: The new applicant shall contact the Crime Prevention Unit of the Alexandria Police Department for a security survey for the business and a robbery awareness program for all employees. (~~Police~~) (~~SUP #2000-003~~) (P&Z)
17. **CONDITION RETAINED 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 as a result of a complaint that rises to the level of a violation, or (c) the director has determined that there are problems with the operation of the use and that new or revised conditions are needed (~~P&Z~~) (~~SUP #2000-003~~) (P&Z)
18. Any sign on Luray Avenue has to be exactly the same as the one on the Mount Vernon Avenue side of the building. (CC) (SUP #2000-003)
19. No food, beverages, or other material shall be stored outside. (P&Z) (SUP #2000-003)
20. Litter on the site and on public rights-of-way and space 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 #2000-003)
21. No amplified sound shall be audible at the property line. (P&Z) (SUP #2000-003)
22. **CONDITION AMENDED BY STAFF**: The applicant shall control cooking odors and smoke from the property to prevent them from becoming a nuisance to neighboring properties, as defined by the ~~Department of Health~~ Department of Transportation and Environmental Services. (~~Health~~) (~~SUP #2000-003~~) (T&ES)

23. Fencing to screen the Luray Avenue side of the parking lot shall be installed and the shrubbery on the Luray Avenue side of the building shall be properly maintained and neatly trimmed, all to the satisfaction of the Director of Planning and Zoning. (P&Z) (SUP #2000-003)
24. **CONDITION ADDED BY STAFF:** One 2 ½ to 3 foot caliper shade tree shall be installed in the grassy area adjacent to the building. The existing privet hedge shall be pruned to a total height of 3 ½ feet and all dead limbs shall be removed. New privet shrubs, between 18-24 inches tall, shall be installed in front of the wood fence along Luray Avenue and adjacent to the building to the satisfaction of the Director of Planning and Zoning. These shrubs shall be pruned to a total height of 3 ½ feet and all landscaping shall be maintained in good condition. (P&Z)
25. **CONDITION ADDED BY STAFF:** 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)

DISCUSSION:

1. The applicant, Ewe Swee Goh, requests special use permit approval to change the ownership of an existing restaurant located at 1302 Mount Vernon Avenue.
2. The subject property is part of one lot of record with 100 feet of frontage on Mount Vernon Avenue, 124.9 feet of frontage on East Luray Avenue, and an area of 12,429 square feet. The lot is developed with a small neighborhood shopping center with five storefront units and a rear parking lot with eight parking spaces.
3. This site has been occupied by a restaurant since 1973 when City Council granted Special Use Permit #914 for the operation of a carry-out restaurant with 16 seats. Since that time the ownership has changed twice and Council has allowed an increase in seating, the addition of delivery service, and a reduction in the off-street parking requirement. When last before Council, in May 2000, City Council required the applicant to remove the illegal oversize signage on Mount Vernon Avenue and to replace it with one wall sign that conforms with the approved sign program for the shopping center and the Mount Vernon Design Guidelines.
4. On March 19, 2001, staff made an inspection of the subject property and observed a violation of the permit conditions. Specifically, staff observed broken beer bottles, fast food wrappers, napkins, and newspaper in the shrubs beside the building and cardboard boxes and plastic bags behind the recently installed fence. Staff issued a citation for the violation and docketed the permit for review by the Planning Commission and City Council in June 2001 (see attached).

In late May, staff learned that the operation of the restaurant had changed hands from Mr. Chan to Ms. Goh. Ms. Goh has filed an application to seek after the fact approval for that change. Based on the recent violation of the permit conditions, the application has been docketed for review by the Planning Commission and City Council.

5. No changes are proposed to the operation of the restaurant.
6. Zoning: The subject property is located in the a CL/Commercial Low zone. Section 4-103(M) of the zoning ordinance permits a restaurant use with a special use permit in the CL zone.
7. Master Plan: The proposed use is consistent with the Potomac West small area plan chapter of the Master Plan which designates the property for commercial low uses.

STAFF ANALYSIS:

Staff has no objection to the continued operation of the restaurant located at 1302 Mount Vernon Avenue. With the exception of the litter problem, staff knows of no other complaints or violations regarding the operation of the restaurant. Staff notes that the prior operator removed the illegal wall sign on Mount Vernon Avenue, and that the new wall sign complies with the coordinated sign approval for the shopping center. In addition, staff notes that the prior operator also pruned the existing privet hedges as required by Condition #23. However, in order to enhance the appearance of the site and maintain the shrubs in a properly pruned fashion, staff recommends that the shrubs be pruned to a total height of not more than 3 ½ feet.

In addition, in order to soften the appearance of the new wood fence and to fill in the gaps where no landscaping currently exists, staff recommends that the applicant be required to install new privet shrubs along the fence and adjacent to the building. Staff also recommends that one shade tree be installed in the grass area near the building and has included conditions to this effect. Staff has spoken with the new operator about these landscaping requirements and was advised by her that she has no objection to them. 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 The applicant shall comply with the 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 & Environmental Services.
- R-2 Kitchen or other types of equipment shall not be cleaned outside, nor shall any cooking residue or other wastes be washed onto the streets, alleys, sidewalks or storm sewers.

Code Enforcement:

- F-1 No comments.

Health Department:

- C-1 An Alexandria Health Department Permit is requirement for all regulated facilities.
- C-2 Permits are non-transferable.
- C-3 That facility must meet current Alexandria City Code requirements for food establishments. A "Change of Ownership Inspection" has been completed by Environmental Health.
- C-4 If changes to the facility are to be done, 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 review of plans for food facilities.
- C-5 Permits must be obtained prior to operation.

- C-6 The facility must comply with the Alexandria City Code, Title 11, Chapter 10, Smoking Prohibitions.
- C-7 Certified Food Managers must be on duty during all hours of operation.
- C-8 This facility is currently operating as South China Restaurant under permit #16F-651-1, issued to Wing Chuen Chan.
- C-9 Provide a menu or list of foods to be handled at this facility to the Health Department prior to opening.
- C-10 A change of ownership inspection was done on April 26, 2001. The new owner has failed to contact this department for a final inspection.

Police Department:

- R-1 Security survey for the business.
- R-2 Robbery awareness program for all employees.
- R-3 Recommend "ABC On" license only. If "ABC Off" is approved we recommend the following conditions:
 - 1. Beer or 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.
 - 2. That the SUP is reviewed after one year.

APPLICATION for SPECIAL USE PERMIT # ~~2000-0003~~
 Change of Ownership or [] Minor Amendment 2001-0062

[must use black ink or type]

PROPERTY LOCATION: 1302 MT VERNON AVE

TAX MAP REFERENCE: _____ ZONE: _____

APPLICANT Name: EWE SWEE GOH

Address: 708-B MT VERNON AVE ALEX, VA 22301

PROPERTY OWNER Name: MYRUNS C. RUBEN

Address: 1108-K STREET, N.W. WASHINGTON DC. 20005

SITE USE: _____

- THE UNDERSIGNED hereby applies for a Special Use Permit for **Change in Ownership**, in accordance with the provisions of Article XI, Division A, Section 11-503 (5)(f) of the 1992 Zoning Ordinance of City of Alexandria, Virginia. THE UNDERSIGNED, having read and received a copy of the special use permit, hereby agrees to comply with all conditions of the current special use permit, including all other applicable City codes and ordinances.
- THE UNDERSIGNED hereby applies for a Special Use Permit for **Minor Amendment**, in accordance with the provisions of Article XI, Division A, Section 11-509 and 11-511 of the 1992 Zoning Ordinance of City of Alexandria, Virginia.

THE UNDERSIGNED, having obtained permission from the property owner, hereby requests this special use permit. The undersigned also attests that all of the information herein required to be furnished by the applicant are true, correct and accurate to the best of their knowledge and belief.

EWE SWEE GOH
Print Name of Applicant or Agent

Ewe Swee Goh
Signature

708-B MT VERNON AVE
Mailing/Street Address

703-7393746 703-5484788
Telephone # Fax #

ALEX VA 22301
City and State Zip Code

05-25-01
Date

DO NOT WRITE BELOW THIS LINE - OFFICE USE ONLY

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

PLANNING COMMISSION:

CITY COUNCIL:

The following information must be furnished to the Department of Planning and Zoning to determine if the current use conducted on the premises complies with the special use permit provisions and all other applicable codes and ordinances.

1. Please describe prior special use permit approval for the subject use.

Most recent Special Use Permit # 2000 - 0003

Date approved: 05 / 13 / 00
month day year

Name of applicant on most recent special use permit WING CHEUN CHAN.

Use CHINESE RESTAURANT.

2. Describe below the nature of the existing operation in detail so that the Department of Planning and Zoning can understand the nature of the change in operation; include information regarding type of operation, number of patrons served, number of employees, parking availability, etc. (Attach additional sheets if necessary)

There is no changes in the existing
operation

3. Describe any proposed changes to the business from what was represented to the Planning Commission and City Council during the special use permit approval process, including any proposed changes in 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, any noise emitted by the use, etc. (Attach additional sheets if necessary)

There is no changes in the existing
business.

4. Is the use currently open for business? Yes ___ No

If the use is closed, provide the date closed. ___ / ___ / ___
month day year

5. Describe any proposed changes to the conditions of the special use permit:

No changes.

6. Are the hours of operation proposed to change? ___ Yes No

If yes, list the current hours and proposed hours:

Current Hours:	Proposed Hours:
_____	_____
_____	_____
_____	_____
_____	_____

7. Will the number of employees remain the same? Yes ___ No

If no, list the current number of employees and the proposed number.

Current Number of Employees:	Proposed Number of Employees:
<u>3</u>	_____

8. Will there be any renovations or new equipment for the business? ___ Yes ___ No

If yes, describe the type of renovations and/or list any new equipment proposed.

Changes from Propane gas to Natural gas.

9. Are you proposing any change in the sales or service of alcoholic beverages? ___ Yes No

If yes, describe proposed changes:

10. Is off-street parking provided for your employees? Yes No
If yes, how many spaces, and where are they located?

11. Is off-street parking provided for your customers? Yes No
If yes, how many spaces, and where are they located?

12. Is there a proposed increase in the number of seats or patrons served? Yes No
If yes, describe the current number of seats or patrons served and the proposed number of seats and patrons served. For restaurants, list the number of seats by type (i.e. bar stools, seats at tables, etc.)

Current:

Proposed:

13. Are physical changes to the structure or interior space requested? Yes No
If yes, attach drawings showing existing and proposed layouts. In both cases, include the floor area devoted to uses, i.e. storage area, customer service area, and/or office spaces.

14. Is there a proposed increase in the building area devoted to the business? Yes No
If yes, describe the existing amount of building area and the proposed amount of building area.

Current:

Proposed:

15. The applicant is the (check one) Property owner Lessee
 other, please describe: _____

16. The applicant is the (check one) Current business owner Prospective business owner
 other, please describe: _____

17. Each application shall contain a clear and concise statement identifying the applicant, including the name and address of each person owning an interest in the applicant and the extent of such ownership interest. If the applicant, or one of such persons holding an ownership interest in the applicant is a corporation, each person owning an interest in excess of ten percent (10%) in the corporation and the extent of interest shall be identified by name and address. For the purpose of this section, the term "ownership interest" shall include any legal or equitable interest held in the subject real estate at the time of the application. If a nonprofit corporation, the name of the registered agent must be provided.

Please provide ownership information here:

EWE SWEE GOH
EIOU KHIAN GOH
KAK CHUAN YOO

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: 10 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:

CHINESE FOOD

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? 2

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: _____

THE DEL RAY CITIZENS ASSOCIATION

DOCKET ITEM 9

P.O. BOX 2233

ALEXANDRIA, VIRGINIA 22301

ESTABLISHED 1954

To: Honorable Members of City Council
Members of Alexandria Planning Commission
Eileen Fogarty, Director, Office of Planning and Zoning

From: Amy Slack, Land Use Committee Co-chair
Sarah Haut, Land Use Committee Co-chair
Bill Hendrickson, President

Date: August 30, 2001

Subject: SUP #2001-0062, Review of SUP to change the ownership of a restaurant located at 1302 Mt. Vernon Ave.

The DRCA land use committee reviewed and discussed the referenced SUP. As we had no objection to the request, we voted to recommend approval at our meeting on August 29, 2001.

We request your support for this position and welcome your questions and comments. Please feel free to contact Co-chairs Amy Slack at 703-549-3412 or Sarah Haut at 703-838-9060 and President Bill Hendrickson at 703-549-7365 (days), 703-519-9410 (evenings).

APPLICATION for SPECIAL USE PERMIT # ~~2000-0003~~ 2001-0062
 Change of Ownership or Minor Amendment

[must use black ink or type]

PROPERTY LOCATION: 1302 MT VERNON AVE

TAX MAP REFERENCE: 13.04-05-02 ZONE: CL

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PROPERTY OWNER Name: MYRUNS C. RUBEN

Address: 1108-K STREET, N.W. WASHINGTON DC. 20005

SITE USE: change ownership of restaurant

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EWE SWEET GOH
Print Name of Applicant or Agent

[Signature]
Signature

708-B MT VERNON AVE
Mailing/Street Address

703-7393746 703-5484788
Telephone # Fax #

ALEX VA 22301
City and State Zip Code

05-25-01
Date

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

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

PLANNING COMMISSION: 9/4/01 RECOMMENDED APPROVAL UC ..
~~APPROVED:~~ _____

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