

EXHIBIT NO. 1

4  
1-13-01

Docket Item #3  
SPECIAL USE PERMIT #2000-0148

Planning Commission Meeting  
January 2, 2001

**ISSUE:** Consideration of a special use permit to change the ownership of an existing restaurant.

**APPLICANT:** Carlo Pascarella

**LOCATION:** 535 East Braddock Road

**ZONE:** CRMU-H/Commercial Residential Mixed Use High

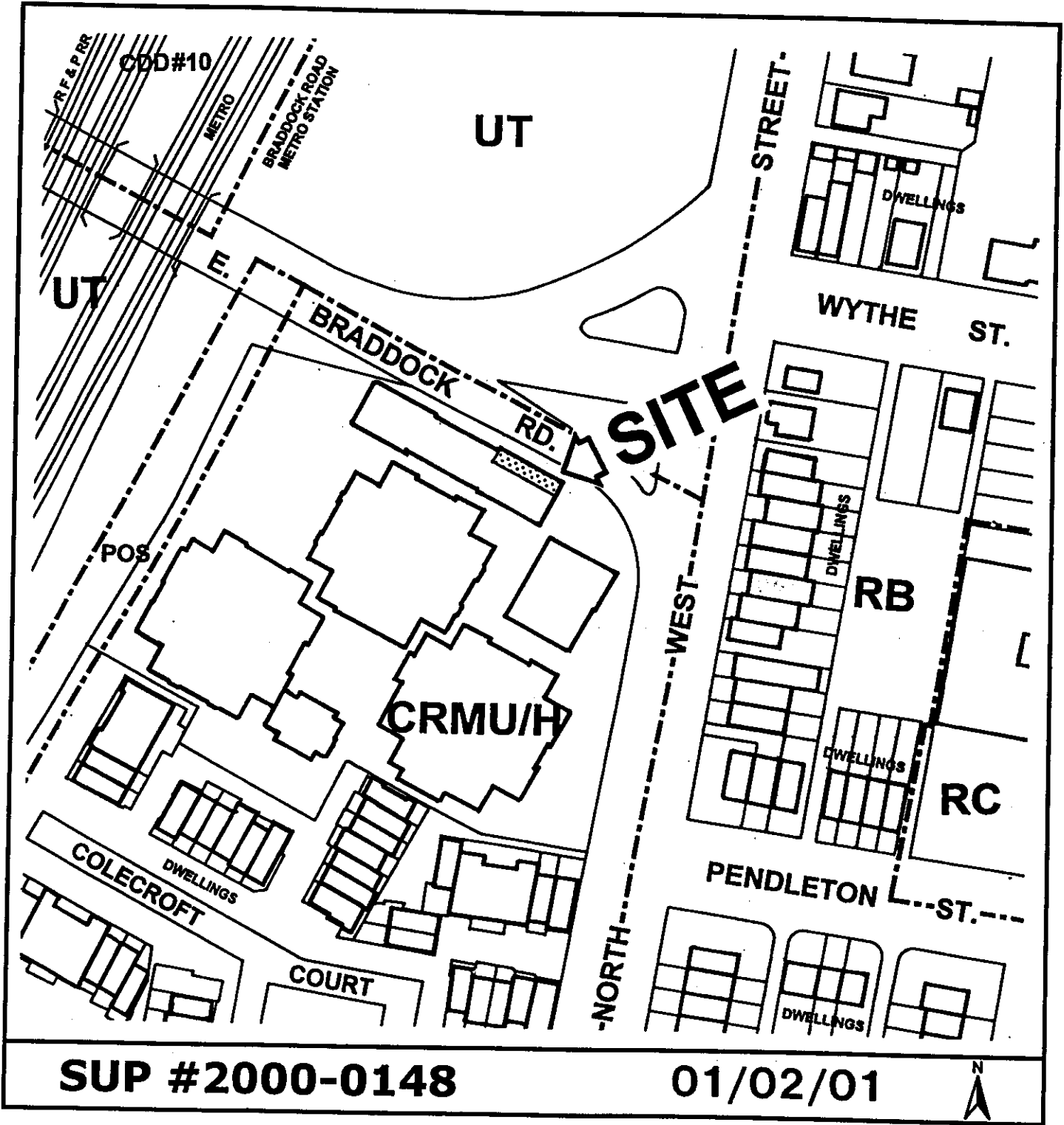
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**PLANNING COMMISSION ACTION, JANUARY 2, 2001:** By unanimous consent, the Planning Commission recommended approval of the request, subject to compliance with all applicable codes, ordinances and staff recommendations.

**Reason:** The Planning Commission agreed with the staff analysis.

**PLANNING COMMISSION ACTION, DECEMBER 5, 2000:** By unanimous consent, the Planning Commission deferred the request.

**Reason:** The applicant failed to mail proper notice.



SUP #2000-0148

01/02/01



STAFF RECOMMENDATION:

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

1. A total of 60 seats shall be permitted, of which not more than 50 seats are indoors and 10 seats outdoors. (P&Z) (SUP #98-0159)
2. The hours during which the business is open to the public shall be restricted to between 6:00 a.m. and 10:00 p.m., Monday through Friday; between 8:00 a.m. and 10:00 p.m. on Saturday; and between 8:00 a.m. and 8:00 p.m. on Sunday, as requested by the applicant. (P&Z) (SUP #2215-A)
3. No food, beverages, or other materials shall be stored outside. (P&Z) (SUP #2215)
4. Trash and garbage shall be stored inside or in a dumpster. (P&Z) (SUP #2215)
5. 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 #98-0159)
6. Condition deleted. (SUP #98-0159)
7. Litter on the site and on public rights-of-way and spaces adjacent to or within 75 feet of the premises 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 #98-0159)
8. The special use permit shall be granted to the applicant only or to any corporation in which the applicant has a controlling interest. (P&Z) (SUP #2215-B)
9. The applicant shall post the hours of operation at the entrance to the restaurant. (P&Z) (SUP #2215-B)
10. The applicant shall install at least one trash container within the restaurant for customers' use. (P&Z) (SUP #98-0159)

11. Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers. (T&ES) (SUP #98-0159)
12. No music or amplified sound shall be audible at the property line. (P&Z) (SUP #98-0159)
13. No live entertainment shall be provided at the restaurant. (P&Z) (SUP #98-0159)
14. The applicant shall require that its employees who drive to work use off-street parking. (P&Z) (SUP #98-0159)
15. Delivery service shall be limited to a maximum of one passenger vehicle at any one time. (P&Z) (SUP #98-0159)
16. There shall be no parking on the public right-of-way by delivery vehicles. (P&Z) (SUP #98-0159)
17. **CONDITION AMENDED BY STAFF:** The new applicant shall contact the Crime Prevention Unit of the Alexandria Police Department for a security survey and robbery awareness program. (~~Police~~) (SUP #98-0159) (Police)
18. **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 determined by the ~~Health Department~~ Department of Transportation and Environmental Services. (~~Health~~) (SUP #98-0159) (P&Z)
19. On-site alcohol service is permitted. (P&Z) (SUP #98-0159)
20. Beer and wine for off-premise consumption may be sold only in 4-packs, 6-packs, or bottles of more than 40 fluid ounces. Wine may be sold only in bottles of at least 750 ml or 25.4 ounces. Fortified wine (wine with an alcohol content of 14% or more by volume) may not be sold. (P&Z) (SUP #98-0159)
21. This special use permit allows a reduction in the parking requirement from 15 spaces to three spaces provided the restaurant maintains its current delicatessen/carry-out format. (P&Z) (SUP #98-0159)
22. The applicant shall post signs within the restaurant identifying the parking spaces designated for commercial tenants at Colecroft. (P&Z) (SUP #98-0159)

23. **CONDITION RETAINED BY STAFF:** The Director of Planning and Zoning shall review the special use permit one year from 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)~~ (SUP #98-0159) (P&Z).
24. The applicant may not deliver alcoholic beverages as part of his delivery services. (Police) (CC) (SUP #98-0159)
25. **CONDITION ADDED BY STAFF:** The applicant shall obtain, at its expense, one Model SD-42 trash container for installation on the adjacent right-of-way. Contact the Department of Transportation and Environmental Services Solid Waste Division at (703) 751-5130 for information. (T&ES)

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**Staff Note:** 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.

DISCUSSION:

1. The applicant, Carlo Pascarella, requests permission to change the ownership of an existing restaurant located at 535 East Braddock Road.
2. The subject property is one lot of record with approximately 362 feet of frontage on Braddock Road, 180 feet of frontage on North West Street and a total lot area of 2.17 acres. The site is developed with the Colecroft office and residential development. In addition to the existing restaurant, the Danaher Hair Salon and Madison Cleaners are located on the ground floor of the office building facing Braddock Road.
3. On February 25, 1989, City Council granted Special Use Permit #2215 for the operation of a carry-out restaurant and delicatessen, and the ownership has changed several times since then. Most recently, on February 20, 1999, City Council granted Special Use Permit #98-0159 to change the ownership of the restaurant, increase the seating from 35 to 50 seats, adding delivery service, permitting on and off premise alcohol sales, and allowing a parking reduction.
4. The applicant has filed this request to change the ownership of the restaurant from Mr. McAfee to himself.
5. The applicant proposes to operate a delicatessen featuring Italian foods.
6. No other changes are proposed to the operation of the restaurant.
7. On November 17, 2000, in conjunction with this request, staff visited the subject property and observed two violations of the permit conditions, issued a citation, and docketed the application for public hearings. Specifically, staff observed that the applicant did not have the hours of operation posted as required by Condition #9. In addition, staff noted that the applicant did not have signs posted in the restaurant identifying the parking spaces designated for commercial tenants at Colecroft as required by Condition #22. Staff spoke with the applicant at length about these conditions and the applicant agreed to comply with them and to post the required signs.
8. Zoning: The subject property is located in the CRMU-H/Commercial Residential Mixed Use High zone. Section 5-303(N) of the zoning ordinance allows a restaurant in the CRMU-H zone only with a special use permit.
9. Master Plan: The proposed use is consistent with the Braddock Road Metro Station small area plan chapter of the Master Plan which designates the property for commercial residential mixed use high uses.

STAFF ANALYSIS:

Staff has no objection to the proposed change of ownership request for the existing restaurant located at 535 East Braddock Road. Staff's only concern is the limited parking so as long as its peak hours of operation continue to occur during the lunch hour and it serves patrons who primarily walk to the restaurant from nearby businesses and residences, the restaurant should be a positive addition to this area. With that understanding, staff believes that the Italian style carryout is consistent with Condition #21 that allows the approved parking reduction provided the restaurant maintains its delicatessen/carry-out format. With the exception of the violations noted above, staff knows of no other violations or complaints from area residents or other City departments. Staff has included the new and amended conditions as recommended by the Police and Department of Transportation and Environmental Services. Staff also recommends retaining the condition requiring a one year review of the permit in order to ensure that the applicant complies with the permit conditions. 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:

- R-1 Modify condition #18 of SUP #98-159 to the following:  
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-2 Maintain conditions #11 and #12 from SUP #98-159
- R-3 Applicant shall obtain, at their expense, one model SD-42 trash container for installation on the adjacent right-of-way. Contact T&ES Solid Waste Division (703-751-5130) for information.

Code Enforcement:

- C-1 Alterations to the existing structure must comply with the current edition of the Uniform Statewide Building Code (USBC).
- C-2 A new fire prevention code permit is required for the proposed operation due to the change in occupancy. An egress plan showing fixture location, aisles and exit doors shall be submitted for review with the permit application.
- C-3 Alterations to the existing structure and/or installation and/or altering of equipment therein requires a building permit. Four sets of plans, bearing the signature and seal of a design professional registered in the Commonwealth of Virginia, must accompany the written application. The plans must include all dimensions, construction alterations details, kitchen equipment, electrical, plumbing, and mechanical layouts and schematics.
- C-4 A rodent control plan shall be submitted to this office for review and approval. This plan shall include the following components:
  - (a) Trash storage, control and removal measures.
  - (b) Foodstuff storage
  - (c) Rodent baiting



Health Department:

- C-1 An Alexandria Health Department Permit is required for all regulated facilities.
- C-2 Permits are non-transferable.
- C-3 This facility must 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 Alexandria City Code, Title 11, Chapter 2, Food and Food Establishments. There is a \$135.00 fee for plans review of food facility.
- 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 Jo-Joe's New York Deli Too under permit #01-0300, issued to Bob Rubin's New York Deli Too.
- C-9 Provide a menu or list of foods to be handled at this facility to the Health Department prior to opening.

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 # 2000-0148

[must use black ink or type]

PROPERTY LOCATION: 535 E BRADDOCK Rd

TAX MAP REFERENCE: 54.03-07-1 ZONE: CR MUH

APPLICANT Name: CARLO PASCARELLA

Address: 505 E BRADDOCK Rd APT 102

PROPERTY OWNER Name: HARRIET YOUNG COLECROFT

Address: 1320 OLD CHAIN BRIDGE Rd

SITE USE: RESTAURANT / Deli / CARRY OUT / SEATING  
(previous SUP 98-0159) Change of Ownership

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.

CARLO PASCARELLA  
Print Name of Applicant or Agent

[Signature]  
Signature

505 E BRADDOCK Rd  
Mailing/Street Address

703 519 7711  
Telephone # Fax #

ALEXANDRIA VA 22314  
City and State Zip Code

10.12.00  
Date

OCT 13 2000

=====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 # 98-00-159

Date approved: 2 / 20 / 90  
month day year

Name of applicant on most recent special use permit KERRY D MCCHAFFEE

Use RESTAURANT / CARRY OUT APPR. 30  
SEAT

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)

CHANGE OWNERSHIP ITALIAN DELI  
SAME ACTIVITIES (HOURS, SEATS,  
ON/OFF PREMISES BEER SALES

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)

NO CHANGES COMPLY WITH  
USP 98/00159

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:

NONE

6. Are the hours of operation proposed to change? \_\_\_ Yes  No  
If yes, list the current hours and proposed hours:

Current Hours:	Proposed Hours:
<u>6 AM 10 PM MON-FRI</u>	<u>SAME</u>
<u>SATURDAY 8 AM 10 PM</u>	<u>SAME</u>
<u>SUNDAY 8 AM 8 PM</u>	<u>.. .</u>

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.

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

9. Are you proposing any change in the sales or service of alcoholic beverages? \_\_\_ Yes  No  
If yes, describe proposed changes:

CURRENT OWNER Permitted  
TO SALE Beer ON/OFF Premises.

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

2 SPACES

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:

35 SEATS  
25 INDOORS  
10 OUTDOOR

Proposed:

SAME  
11  
11

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:

CARLO PASCARELLA 100%  
505 E BRADDOCK Rd APT 102  
ALEXANDRIA VA 22314





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

Date ticket served: 11/17/00 Friday  
Time of ticket served: 11:30

Location of Violation: 535 E. Braddock

Ord. Section: 11-505

Description of Violation: Violation of  
SUP # 98-059 conditions #94  
22 - Posting hours of operation  
post sign within the restaurant  
identifying the  
parking spaces.  
Penalty \$: 50.00

WARNING  1st  2nd  3rd/MORE

IF THE VIOLATION IS NOT CORRECTED BY  
10 DAYS A MONETARY PENALTY  
WILL BE ASSESSED.

Thaddeum beam  
Inspector's Name

I personally observed or investigated the commission of the violation noted above and/or violation was based upon signed affidavit.

You have the right to appeal this notice of a zoning violation within thirty days in accordance with 15.1-496.1 of the Code of Virginia. The decision shall be final and unreviewable if not appealed within thirty days.

VIOLATORS COPY - WHITE  
CITY ATTORNEY COPY - YELLOW  
FINANCE COPY - PINK  
PLANNING AND ZONING COPY - ORANGE

NOTICE SERVED ON: SOP 98-0159  
Rosacella Carlo  
NAME: LAST FIRST MIDDLE

PROPERTY OWNER  
 COMPANY LA PIZZA  
NAME

OTHER  
ADDRESS: 535 E. Braddock Rd.  
CITY/STATE: Alexandria VA  
ZIP: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_  
DATE: \_\_\_\_\_  
I hereby acknowledge receipt of this Notice of Violation. Signature is not an admission of guilt.

PERSON REFUSED TO SIGN  
DATE: \_\_\_\_\_

**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 #: \_\_\_\_\_

Z-01

TICKET NO. 1520

**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

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 703-838-4948.

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 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.

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 SUMMARY 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 \_\_\_\_\_

SUP 2000-0148

APPLICATION for SPECIAL USE PERMIT # 2000-0148 4

[must use black ink or type]

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TAX MAP REFERENCE: 54.03-07-1 ZONE: CR MUP

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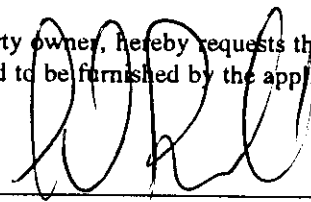
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CARLO PASCARELLA  
Print Name of Applicant or Agent



Signature

505 E BRADDOCK Rd  
Mailing/Street Address

703 519 7711  
Telephone # Fax #

OCT 13 2000

Alexandria VA 22314  
City and State Zip Code

10-12-00  
Date

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

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

PLANNING COMMISSION  
~~PLANNING COMMISSION~~: 01/2/01 RECOMMEND APPROVAL UC

CITY COUNCIL: 01/13/01PH -- CC approved the Planning Commission  
~~RECOMMENDATION~~ recommendation.