

Docket Item #15
SPECIAL USE PERMIT #2002-0026

Planning Commission Meeting
October 1, 2002

ISSUE: Consideration of review of a special use permit for a restaurant.

APPLICANT: Grupo Dos Chiles, LLC
by Alfred W. Shriver, III

LOCATION: 4111 Duke Street
Dancing Peppers Restaurant

ZONE: CC/Commercial Community

PLANNING COMMISSION ACTION, OCTOBER 1, 2002: On a motion by Mr. Robinson, seconded by Mr. Komoroske, the Planning Commission voted to recommend approval of the request, subject to compliance with all applicable codes, ordinances and staff recommendations. The motion carried on a vote of 5 to 1; Mr. Leibach voted against the motion and Mr. Dunn was absent.

Reason: The Planning Commission agreed with the staff analysis, expressed support for the final landscaping compromise, but specifically stated that the dumpster should be completely closed. Members discussed the general disarray of the site, expressing the hope that the owners can remove debris and equipment from the rear of the parking lot.

Speakers:

Mr. Tripp Shriver, restaurant owner, spoke and represented that the additional landscape area, to be created by removing additional asphalt area near the driveway, would be removed by the November 1st date required by Condition #19.

PLANNING COMMISSION ACTION, JULY 2, 2002: On a motion by Mr. Komoroske, seconded by Mr. Robinson, the Planning Commission voted to defer this item. The motion carried on a vote of 7 to 0.

Reason: The Commission was concerned that not all required work had been done consistent with staff's direction. Mr. Robinson explained that he had participated in a meeting at which a landscape plan had been agreed to between staff and the applicant, with the help of a landscape architect, but that the landscaping installed did not seem to comply with that plan. In response to the applicant, Chairman Wagner explained that the applicant has the responsibility to obtain staff's approval for any modifications to that plan prior to implementing it.

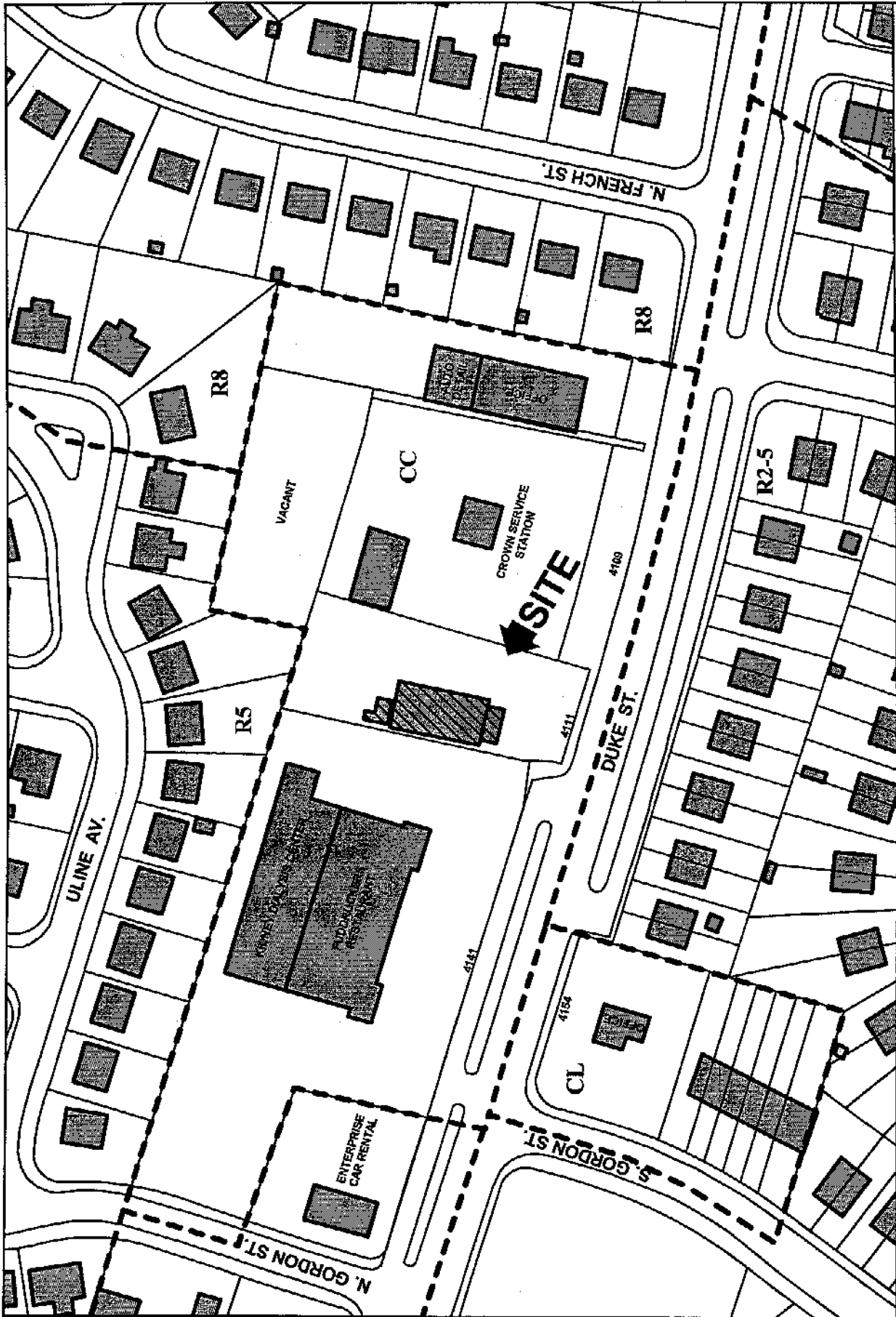
Speakers:

Yolanda Martinez and Tripp Shriver, on behalf of the restaurant, discussed the fact that they were unable to plant according to the agreed landscape plan because it would mean removing asphalt. They also argued that they should not have to surround the dumpster with screening required by staff.

PLANNING COMMISSION ACTION, JUNE 4, 2002: On a motion by Mr. Dunn, seconded by Mr. Komoroske, the Planning Commission voted to defer this item. The motion carried on a vote of 7 to 0.

Reason: The Planning Commission suggested the deferral of the case to revoke the permit, in order to allow the applicant a final opportunity to comply with the special use permit requirements.

There were no speakers.



10/01/02

SUP #2002-0026



STAFF RECOMMENDATION:

Staff recommends **approval** of the special use permit. If the permit is approved, staff recommends that the approval be subject to compliance with all applicable codes and ordinances and the following conditions:

1. The special use permit be granted to the applicant or to any corporation in which the applicant has a controlling interest only. (P&Z) (SUP #1774)
2. Seating may be provided for no more than 143 patrons, of which no more than 40 seats shall be located on the outdoor area. (CC) (SUP #2000-0074)
3. Outside dining facilities shall be provided for no more than 40 patrons within the front porch area. When outside dining facilities are provided: (a) litter shall be picked up as it is generated, and (b) the outside dining area shall be scrubbed and washed down at the close of each day of operation. (CC) (SUP #2000-0074)
4. The hours during which the business is open to the public shall be restricted to between 11:00 A.M. and 2:00 A.M., daily. (PC) (SUP #2000-0074)
5. No food, beverages, or other material shall be stored outside. (P&Z) (SUP #1774)
6. Trash and garbage shall be stored inside or in a dumpster. (P&Z) (SUP #1774)
7. Trash and garbage shall be placed in sealed containers which do not allow odors to escape and shall be stored inside or in a closed containers 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 #2000-0074)
8. Condition delcted. (CC) (SUP #2000-0074)
9. Live entertainment shall be permitted to provide background ambient music to dining patrons. (P&Z) (SUP #2000-0074)
10. The applicant shall post the hours of operation at the entrance to the restaurant. (P&Z) (SUP #2000-0074)

11. On-site alcohol service is permitted; no off-premise alcohol sales are permitted. (P&Z) (SUP #2000-0074)
12. Litter on the site and on public rights-of-way and spaces adjacent to or within 75 feet of the premises shall be picked up at least twice a day and at the close of business, and more often if necessary, to prevent an unsightly or unsanitary accumulation, on each day that the business is open to the public. (P&Z) (SUP #2000-0074)
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 #2000-0074)
14. **CONDITION AMENDED BY STAFF:** The applicant shall control cooking odors, smoke and any other air pollution from operations at the site and prevent them from leaving the property or becoming a nuisance to neighboring properties, as determined by the Department of Transportation and Environmental Services. (T&ES)
15. No music or amplified sound shall be audible at the property line. (P&Z) (SUP #2000-0074)
16. The 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 the employees. (Police) (SUP #2000-0074)
17. **CONDITION AMENDED BY STAFF:** The applicant shall install and maintain in good condition screening around the storage trailer, any outbuildings, and the dumpster to the satisfaction of the Director of Planning and Zoning. ~~The work shall be completed by May 4, 2002.~~ (P&Z)
18. **CONDITION AMENDED BY STAFF:** The applicant shall maintain the parking lot pavement in good condition. ~~repair the pavement at the rear of the parking lot by May 4, 2002 and maintain it in good condition.~~ (P&Z) (SUP #2000-0074)

19. **CONDITION AMENDED BY STAFF:** The applicant shall continue negotiations on the landscaping and install the landscaping generally consistent with either staff's proposed alternative #1 or #2 and to the satisfaction of the Director of Planning and Zoning, ~~but that the landscaping shall include four trees. The exterior of the restaurant shall not be cluttered with three-dimensional signage in the form of objects, figures or a flag pole, although one element, preferably a wagon may be installed on the parking lot side of the landscape area where gravel is now shown on Alternative #2.~~ The applicant shall construct landscaping beds, narrow the driveway entrance and install landscaping, all consistent with the landscaping plan dated July 31, 2002 as refined by letter of August 30, 2002. The landscaping in at least the front portion of the beds shall be installed prior to November 1, 2002 ~~May 4, 2002~~ and shall be maintained in perpetuity thereafter. (P&Z) (City Council)
20. **CONDITION DELETED BY STAFF:** ~~The height of the freestanding sign shall be lowered to 15 feet by May 4, 2002, and if the work is not completed within that time, the special use permit shall be brought back for consideration of whether the permit should be allowed to continue.~~ (PC) (City Council)
21. **CONDITION AMENDED BY STAFF:** The Director shall review the permit six months and docket it 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. If the work required by these conditions has not been completed within the next six months, then this permit shall be docketed so that its revocation can be considered by the Commission and Council. (P&Z)
22. Condition Deleted. (SUP #2000-0074 - City Council)
23. 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, Grupo Dos Chiles LLC, by Alfred W. Shriver III, is before the Planning Commission for review of a special use permit for a restaurant located at 4111 Duke Street.
2. The subject property is one lot of record with approximately 73 feet of frontage on Duke Street and a total lot area of approximately 26,000 square feet. The site is developed with a one story restaurant building and parking. A Crown gas station is located to the east of the restaurant, and Fuddrucker's restaurant abuts the property to the west. Immediately behind the restaurant are residential properties, and there are residential properties across Duke Street to the south.
3. The property has been used as a restaurant by various owners since the 1970s. It operated for many years as the Eastport Raw Bar and then more recently as Mango Mike's. Prior to Dancing Peppers, the only special use permit granted for the restaurant was Special Use Permit #1774, approved by City Council on May 18, 1985, at the time of the expansion of the restaurant to include outdoor seating.
4. The Dancing Peppers special use permit was originally approved on June 17, 2000, (SUP #2000-0074) when the ownership of the restaurant was changed to the current business, Grupo Dos Chiles LLC, by Tripp Shriver. Dancing Peppers offers Mexican food and alcoholic beverages. The approved hours of operation are 11:00 a.m. to 2:00 a.m. daily. Live entertainment is permitted to provide background ambient music to dining patrons.
5. Since its approval in June 2000, there have been notable problems achieving compliance with outstanding site work required by City Council in its initial approval. One year ago, on the one year review of the case, the applicant had failed to comply with conditions regarding landscaping, screening its dumpster and lowering its sign, and had outstanding building and fire code violations. After a series of hearings at Planning Commission and Council, and after several meetings with staff, Council approved the continuation of the restaurant (SUP #2001-0061) last December 15, but gave the restaurant until May 4, 2002 to comply.
6. When the required work was not performed by the applicant by May 2002, staff brought the case forward for revocation citing three remaining violations (the sign had not been lowered, the dumpster was not completely screened, and no landscaping had been installed) and a chronology of zoning and code enforcement problems (see attachments). At its hearing on June 5, 2002, the Commission deferred the revocation case after the applicant represented that it would lower the sign, fully enclose the dumpster and work with staff on an acceptable landscape plan.

7. Staff met with the applicant, Commissioner Larry Robinson, and the city's landscape architect consultant on June 5, 2002. As a result, a new landscape plan was designed by the city's landscape consultant and agreed to by the applicant and staff. (See landscape plan, 6/6/02.) The applicant did lower the sign and install some plant material immediately prior to the Planning Commission meeting of July 5; however, the planting did not comply with the agreed to landscape plan and the applicant did not complete the required dumpster screening.

At the July 5, 2002, meeting, the Commission again deferred the matter. The applicant informed the Commission of his discovery that compliance with the plan would require removal of asphalt material from the driveway. After admonishment from the Commission, the applicant agreed to continue working with staff on the landscaping.

8. The applicant did not attend a July 12 meeting scheduled with staff, Mr. Robinson and the city's landscape consultant at City Hall, claiming a communication problem, but did attend a meeting on July 29. Thereafter, the city's landscape consultant visited the site and created a new landscape plan, following direction from the applicant. The new plan, dated July 31, 2002, includes no street trees, but does include a timber wall and a significant evergreen hedge along the wall, both parallel with the street. Additional plantings, both evergreen and seasonal, will be located in front of the hedge and on the ends of the planting beds. The rear portion of the beds includes a sand or gravel area with boulders, cacti, and mariachi figures, as well as a wagon and the future site of a flag pole. (See attached July 31 plan)

On August 30, 2002, staff and the applicant agreed to a further refinement of the July 31 plan. (See letter dated August 30, 2002.) The refined plan includes the requirement that the landscape beds be extended approximately eight feet each toward the center of the site, narrowing the driveway by the same amount. The newly created landscape area will include an extension of both the timber wall and the photinia hedge in front of it. Together, those elements will create the green "edge" that staff has sought to frame the street.

6. Neither the Health Department nor Police report a problem with the restaurant.
7. The restaurant has received six zoning citations over the past year, and has yet to pay the fines which amount to \$400.00.

STAFF ANALYSIS:

Staff recommends approval of the special use permit with the requirement that the applicant install the compromise landscaping plan to which it has agreed: the revised landscape plan of July 31, 2002, as refined by the agreement of August 31. Staff has eliminated earlier language in the conditions which is inconsistent with the plan, and can support the current plan because it should achieve a significant improvement in the site, and specifically the green edge so important to the streetscape there. Although compliance has proven difficult in the past, the applicant has agreed to install this plan, including the removal of asphalt in the center of the frontage, narrowing the driveway, in order to create additional landscape area. That significant addition justifies the removal of the trees and the addition of the southwestern features in the rear of the beds that the applicant has consistently sought.

As to the dumpster, the applicant has told staff that he now will not add a third side of screening and gate without a Commission and Council requirement to do so, arguing that it is not necessary. Staff continues to insist on this relatively minor addition, because it keeps the dumpster contained and visibly screened and is consistent with its dumpster screening requirements elsewhere in the City.

Staff is recommending that this permit be reviewed six months from now, and that if the required work has not been completed, then the permit be brought forward for revocation.

STAFF: Eileen P. Fogarty, Director, Department of Planning and Zoning;
Barbara Ross, Deputy Director.

CITY DEPARTMENT COMMENTS

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

Transportation & Environmental Services:

- C-1 The applicant shall comply with the City of Alexandria's Noise Control Code, Title 11, Chapter 5, which sets the maximum permissible noise level as measured at the property line.
- R-1 Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers.
- R-2 The applicant shall control cooking odors, smoke and any other air pollution from operations at the site and prevent them from leaving the property or becoming a nuisance to neighboring properties, as determined by the Department of Transportation & Environmental Services.
- R-3 No music or amplified music shall be audible at the property line.

Code Enforcement:

Refer to attached comments.

Health Department:

- F-1 No objections to continued use.

Police Department:

- F-1 Security survey and robbery awareness program completed.

Dancing Peppers Restaurant
SUP #2002-0026
Planning and Zoning Conditions and Violations
May 13, 2002

1. On June 17, 2000, SUP#2000-0074 was approved for Dancing Peppers requiring
 - landscaping
 - lowering sign to 15'
 - screen dumpster etc
 - repair paving
2. In May 2001 staff issued a ticket for noncompliance with each of these requirements as part of the one year review.
3. In June 2001 the applicant met with staff in response to the ticket. Staff went through each of the violations, and explained the purpose of the requirement. As to the landscaping, staff described what it believed was appropriate for landscaping, consistent with its work on neighboring properties. The applicant told staff it would work with Campbell and Ferrara on a landscape plan. Staff docketed the review case for September 2001.
4. Shortly before the September hearing, the applicant submitted an unsatisfactory landscaping plan. It included no shrubbery, no evergreen plants, and no street trees. Its southwestern theme included fake cactus, mariachi musicians and a large gravel area.
5. The September 2001 hearing, and the deferred October 2001 hearing, on the review case could not proceed because the applicant failed to send the required written legal notice.
6. In November 2001, the Planning Commission deferred the review case (SUP# 2001-0061) and asked staff to work with the applicant on a landscape plan. Staff developed two alternative plans. One was a simple plan similar to what it would ordinarily recommend, and what it had recommended for neighboring properties, including street trees and evergreen shrubbery. The second was an integration of a southwestern theme with the streetscape improvements staff believes are necessary for Duke Street at this location. It includes both evergreen shrubs and street trees along Duke Street, but incorporates some southwestern species and elements. The applicant would not agree to the latter.
7. At the December 4, 2001, hearing the Planning Commission approved the continuation of the restaurant but required compliance by the applicant with either of staff's landscaping plans by May 4, 2002. As to the requirement to lower the sign, the Commission required that be completed by February 4, 2002. The Commission specifically directed that if the work was not done, staff should bring the case back for revocation.

8. At its December 15, 2001, hearing, City Council agreed to allow the applicant until May 4, 2002, to both lower the sign and install the landscaping. On the issue of landscaping, Council suggested that staff continue to negotiate with the applicant on a compromise plan, but required at a minimum that it include four trees.
9. Having not heard from the applicant, staff wrote him on February 25, 2002, reminding him of the above requirements and the scheduled June hearings, and suggesting he contact staff to work on the landscaping plan. Staff did not hear from the applicant in response to its letter.
10. On May 13, 2002, staff inspected the restaurant and the site to determine compliance with the outstanding conditions. There was no landscaping and the sign has not been lowered (violations of Conditions #19 and #20). There has been an attempt to screen two sides of the dumpster but, because it lacks screening in front, the dumpster is visible to the public. The restaurant is in violation of Condition #17 because the dumpster has not been screened to the satisfaction of the Director of Planning and Zoning.

On May 13, 2002, staff issued citations and scheduled hearings for revocation of the permit for June 2002.

On May 13, 2002, staff wrote the applicant advising him of the continued violations and of the scheduled June hearings for revocation of the special use permit.

CODE ENFORCEMENT COMMENTS

4111 DUKE STREET DANCING PEPPER RESTAURANT SUP 2002-0026

May 21, 2002

The following is a chronology of Code's attempt to work with Mr. A. W. Shriver to bring the front decking into compliance with the Virginia Uniform Statewide Building Code (VUSBC):

1. In September 2001, in conjunction with a SUP inspection, it was discovered that two new deck areas had been constructed on either side of the steps leading to the original deck on the Dancing Pepper Restaurant. Neither of the two new deck areas had been constructed under benefit of a permit and inspections as is required by the VUSBC. In checking our micro-film records, it was determined that the original front porch/deck extended out 11' from the face of the building. This porch/deck area was constructed in under a valid permit with plans approved in 1983.
2. On September 26, 2001, Mr. Shriver applied for a deck replacement permit using the city deck detail application intended solely for residential properties. He misrepresented the facts on his application to obtain the permit which was issued the same day.
3. On October 3, 2001, a letter was sent to Mr. Shriver advising him that the construction permit for the deck was issued in error and as a result, had been revoked. The letter stated what was needed to obtain a valid permit. The letter also stated that the deck areas not constructed under a permit could not be used until permits were obtained and final inspections approved. Mr. Shriver was given a date of October 19, 2001, by which to submit plans (signed and sealed by a professional architect or engineer as required by State Code) and apply for a construction permit.
4. In late October or early November 2001, Mr. Shriver met with Art Dahlberg to discuss what needed to be done to bring the deck areas into compliance.
5. On December 6, 2001, a Notice of Violation letter was sent to Mr. Shriver because he failed to re-submit for a permit and did not discontinue using the new deck areas as he had been instructed to do in telephone conversations, in person during his meeting with Mr. Dahlberg, and in writing. In the letter of December 6, Mr. Shriver was given until December 14, 2001, to submit plans and a permit application for the new deck areas or the matter would be referred to the City Attorney for legal action and a recommendation that the SUP be revoked.
6. In mid to late December, Mr. Shriver called Art Dahlberg and said that he would appeal the notice of violation.

7. As he did not comply with the letter of December 6, nor file an appeal, on January 16, 2002, a letter was sent to Mr. Shriver advising him of appeal time-frames. An application for filing an appeal was included in the letter. The deadline to file an appeal was 5:00 p.m. on March 6, 2002. Mr. Shriver did not file an appeal nor has he been in contact with this office.

8. On April 16, 2002, an inspection was conducted by Deputy Fire Marshal Michael Hazel for the renewal of the annual Fire Prevention Code permit (FPP). The outstanding issues are as follows:

- exit signs in dining area
- bar area - missing 3 outside skirts for two-piece escutcheon
 - sprinkler needs relocating
- kitchen - missing 3 escutcheons
- need to raise sprinkler head in valve room
- 3-way valve needs replacing
- spare sprinkler wrench must be on site.

According to Mr. Shriver, the items relating to the sprinkler system are out to bid and will be corrected by May 1, 2002.

9. April 24, 2002, Mr. Stephen D. Quatannens, attorney for the Dancing Pepper, requested a meeting with Code Enforcement staff. To properly address the issues for the two newer deck areas on either side of the front steps, Mr. Quatannens was advised that his clients must submit plans, signed and sealed by a Virginia registered structural engineer, and obtain permits and inspections as is required by the USBC. The plans must demonstrate how the newer decks attach to and/or affect the original front deck. Until the plans are submitted, permits issued and construction approved with inspections, Mr. Quatannens was informed that his clients must not use any portion of the three front decks as their structural stability is uncertain. Mr. Quatannens was given copies of the correspondences sent from the Art Dahlberg to Mr. Tripp Shriver since September 2001, and he expressed surprise that this issue has been going on for so long.

10. April 30, 2002, Yolanda Martinez, part-owner of the Dancing Pepper, submitted a permit application to "Repair Deck" along with plans sealed by Joseph Buckley, a State licensed Landscape Architect. As the plans are for an assembly use and landscape architects cannot seal such plans, Ms. Martinez was informed that the plans could not be approved as submitted and would have to be further sealed by a Virginia licensed structural engineer or architect.

11. On May 1, 2002, at 9:40 a.m., Mr. Brian Cole of The Deck Company, called Deputy Director Hazel and identified himself as the contractor hired to perform the deck construction on the Dancing Pepper. He inquired as to the time frame for issuing the permit as Ms. Martinez wanted the deck completed in time for a Cinco-de-Mayo Celebration on Sunday, May 5, 2002. He was advised that the time frame depended on how soon the required information was submitted. Mr. Cole was reminded that no work was to begin until the permit was issued. Ms. Martinez provided sealed structural calculations from D. Anthony Beale, Professional Engineer, confirming the existing and proposed construction shown on the plans drawn by Mr. Buckley.

12. May 2, 2002, building permit BLD2002-01056 was issued to repair the existing east-side deck (located to right of front stairs). The west-side deck (located to the left of the front stairs) had been removed and was shown on the plans as a future deck.

13. May 3, 2002:

- Requested final inspection for BLD2002-01056 was rejected for:
 - no approved plans on site;
 - electrical wiring not secured;
 - work not complete at time of inspection.

• At 11:45 a.m. On May 3, Agent Gholson of the Virginia ABC Board called Code Enforcement to inquire if the Dancing Pepper was in full compliance with all building code regulations as their attorney assured him that his clients had obtained required permits for compliance. Agent Gholson added that the Dancing Pepper was seeking permission to use the outdoor parking lot area to hold an event on Sunday, May 5, 2002. Inspector Gholson was advised that the permit was for both an existing deck **and** a future deck and until **all** work was complete and approved, the Dancing Pepper is not in compliance. He was also informed that outside events, such as was requested, may be in violation of the Dancing Pepper's SUP and that he should check with Barbara Ross of Planning and Zoning. Agent Gholson said that he had enough information to deny the application.

• At 3:50 p.m. on May 3, 2002, Yolanda Martinez called and spoke with Deputy Director Hazel to request an overtime inspection on her deck so she could use it for customers on May 4 and 5, 2002. Ms. Martinez was informed that the deck would not pass inspection and as such, the deck could not be used. Ms. Hazel and Ms. Martinez had a long and very positive discussion about the what was needed to revise the current plans/permit to address each new deck area independently. Structural concerns were discussed with Ms. Martinez and she agreed to go back to Anthony Beale, Structural Engineer, the week of May 6th to have revised plans drawn for submission. To assist her in this, a "survey" inspection was scheduled for May 6, 2002, to have a building inspector provide documentation of issues for her structural engineer to address. Ms. Martinez requested permission to use the decks on Sunday, May 5, for a "Family Heritage Celebration." Her request was denied.

14. May 6, 2002, the survey inspection was conducted by Conrad Stout, Building Inspector. He noted that an engineer's report is needed to verify the footing on the existing deck and that additional footings are needed at the mid-span bearing beam.

15. May 13, 2002, a revision was submitted for additional footings and beams for the east-side deck only (BLD2002-01056). The revision is sealed by Anthony Beale, Structural Engineer. Plans for the west-side deck (to the left of the steps) will be removed from this submission and re-submitted under a separate permit at a later date.

16. Footing inspection approved for BLD2002-01056 on May 15, 2002.

17. May 16, 2002, framing and final inspections approved for BLD2002-01056 - the east-side deck to the right of the stairs.

18. May 17, 2002:

• Application submitted for west-side deck (to left of stairs) - BLD2002-01208. On this submission, the front steps have been relocated requiring additional information from the structural engineer, Charles Downey. As such, the permit could not be treated as a walk-through review and approval. Ms. Martinez was advised that the permit should be ready no later than 5/21/02.

19. May 17, 2002 - Deputy Fire Marshal Michael Hazel reinspected the Dancing Pepper for Fire Prevention Code issues cited on April 16, 2002(see note 8):

1. Exit sign and fire extinguisher violations abated.
2. Relocation of a speaker away from a sprinkler head was completed.
3. The hood was recently cleaned and the hood system was serviced in March.
4. The following violations were to be corrected by May 1 and remain outstanding.

According to Mr. Shriver, these violations will be corrected by May 21, 2002:

- bar area - missing 3 outside skirts for two-piece escutcheon
- kitchen - missing 3 escutcheons plates
- need to raise sprinkler head in valve room
- 3-way valve needs replacing
- spare sprinkler heads and wrench must be on site
- water gauge outdated and must be replaced
- signs for control valve, inspector's test and main drain must be replaced
- storage area behind bar needs old kitchen hood removed and one pendant sprinkler installed

20. May 20, 2002, Sufficient information received to complete review and issue permit for west-side deck (BLD2002- 01208). Entrance stairs are relocated to right/east-side of deck configurations.

Note: As of May 20, 2002, Outstanding Issues are:

1. inspections on the west-side deck (BLD2002-01208); and
2. completion/re-inspection of fire protection issues listed in item 19.

BR

APPLICATION for SPECIAL USE PERMIT # 2002-0026

[must use black ink or type]

PROPERTY LOCATION: 4111 DUKE ST (FOXCHASE CTR.)

TAX MAP REFERENCE: 60.01-01-01 ZONE: CC

APPLICANT Name: GRUPO DOS CHILES, LLC

Address: _____

PROPERTY OWNER Name: _____

Address: _____

PROPOSED USE: REVIEW of Restaurant "DANCING PEPPERS"

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.

Print Name of Applicant or Agent

Signature

Mailing/Street Address

Telephone #

Fax #

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: _____

City of Alexandria, Virginia

MEMORANDUM

DATE: NOVEMBER 26, 2001

TO: CHAIRMAN AND MEMBERS OF THE PLANNING COMMISSION

FROM: EILEEN FOGARTY, DIRECTOR, PLANNING AND ZONING *Eileen Fogarty*

SUBJECT: DANCING PEPPERS RESTAURANT
SUP #2001-0061

This case is before the Commission, after being deferred last month, because the applicant and operator of the Dancing Peppers Restaurant has failed to comply with several conditions imposed by the Commission and City Council when the restaurant was originally approved in June 2000. In addition, there are building code violations at the restaurant. The continuing issues are:

1. **Landscaping.** Condition # 19 requires the applicant to submit a landscaping plan to the satisfaction of the Director of Planning and Zoning. Staff issued a citation for noncompliance in May 2001, when the restaurant's official one year review took place. As of that time, the applicant had neither installed landscaping nor submitted a plan for review. There being a violation of the permit, the matter was docketed for review before the Planning Commission in September.

After he received a citation, the applicant came in and met with staff to discuss each of his violations. The applicant was advised that the City hoped to achieve landscaping here in the form of street trees and evergreen shrubbery to match neighboring properties, creating a unified street presence and a street edge. Shortly before the September hearing, the applicant submitted a plan for landscaping the front of the site, with species native to the Southwest, a stone wall, and large gravel areas. The plan includes no trees and no evergreen shrubbery. The plan as submitted also includes two fake cactus plants. Staff advised the applicant of its concerns and the matter was discussed at the last Commission meeting.

Since the Commission hearing in November, staff has met with the applicant and proposed two alternative plans for his consideration. Alternative #1 is a simple landscape plan of the sort that staff

would prefer. It is consistent with the landscaping proposed for the neighboring properties and includes street trees and evergreen shrubs, but is not identical.

Alternative #2 responds to the applicant's desire for a Southwestern theme and includes elements of both the staff's concept and the applicant's. It shows street trees at the street frontage, a low stone wall behind that, and then grasses, yucca and other plant species suggested by the applicant planted beyond the wall. Alternative #2 includes more plants than the applicant's does in order to achieve a massing effect and soften the street edge. It does include some gravel area within the parking lot area. The two concepts work together as a compromise plan to create the desired street presence and entry area for the public and customers, as well as to frame the space as perceived by customers from within the parking area.

Staff presented both plans to the applicant for his consideration, and gave him copies to discuss with his landscaper. As of the date of this memorandum, the applicant has not indicated whether he is willing to comply with either of the plans.

One issue raised by the applicant in the recent meeting is his plan to include, as part of the landscape plan, fake cactus plants, a wagon, and metal mariachi figures. He also spoke about his desire for a tall flag pole to fly the flags of the United States, Texas and Mexico. Staff believes that these extra elements will detract from the unified street presence staff is attempting to create along Duke Street. They add visual clutter, are not natural elements, and amount to three dimensional signage. They also set a precedent for use of manmade objects at other locations instead of landscaping. While it may be that one feature, for example, a wagon, could add character and identity if limited to a fairly small area, the inclusion of all of these elements adds to the chaotic effect on Duke Street that staff is trying to eliminate.

Staff is willing to work with the applicant on landscaping but believes that, in order to best ensure compliance, the special use permit needs to be very clear about what is expected of the applicant. Staff recommends a new Condition #19 that states:

The applicant shall install landscaping generally consistent with either staff's proposed alternative #1 or #2 and to the satisfaction of the Director of Planning and Zoning. The exterior of the restaurant shall not be cluttered with three dimensional signage in the form of objects, figures or a flag pole, although one element, preferably a wagon may be installed on the parking lot side of the landscape area where gravel is now shown on Alternative #2. The landscaping shall be installed prior to May 4, 2002 and shall be maintained in perpetuity thereafter.

2. Sign. The freestanding sign at the front of this restaurant lot is approximately 25 feet tall. Two years ago, staff recommended that it be lowered to a maximum of 15 feet, and staff strongly recommends that the condition be enforced, despite the applicant's refusal to comply. Precisely the same requirement has been made as to the Crown Station next door, as well as at 4103-4107 Duke Street, the prior site of the Northern Virginia Law School. The two neighboring property owners have agreed to lower their signs.

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Staff's effort in this part of Duke Street is to reduce the visual clutter created by numerous curb cuts, signs, parking lots and the lack of any landscaping to unify the different properties and soften their streetscape appearance. The visual chaos is controlled by reducing those physical elements that detract, such as tall signs, flag poles and curb cuts, and by installing landscaping along the street edge. The result should be, as seen along Duke Street near the new Beatley Library, a street with a unified, framed edge at an urban but human scale, so that the experience of both the pedestrian and driver is enhanced. With regard to signs, there is no intent to limit the business' ability to identify itself or attract customers and the 15 foot tall sign staff recommends will allow that identity while helping improve the appearance of the street frontage.

3. **Trailer**. There has historically been a trailer structure installed immediately behind the restaurant, which staff recommended be removed when the Dancing Peppers special use permit was approved. Staff's recommendation was based on the fact that trailers are not permitted under the zoning ordinance and that the trailer made the rear of the lot unsightly. Since that time, the applicant has argued successfully to staff that the "trailer" is actually a building, in that it has a foundation and utilities. In addition, the applicant has erected a tall fence surrounding the outbuilding to make the area more attractive. Given these facts, staff agrees with the applicant that the trailer can remain.

4. **Dumpster screening**. Staff is recommending that the applicant screen, with the typical wood fencing and gate, the dumpster at the rear of the property. The applicant stated at the hearing in November that he is willing to do that.

5. **Parking lot paving**. The paving in the parking lot, especially in the rear, is in need of repair. Areas of the top layers of asphalt are missing or buckling. The applicant has indicated that he is willing to do the paving work but has not done so to date.

6. **Building code violations**. There are two outstanding code issues relating to the restaurant. First, the outside floor drain that was discharging on the adjacent property has been closed with a temporary, removable plug. While acceptable as a short term fix, a permanent plug needs to be installed. In addition, the restaurant has extended the size of its outdoor dining area without obtaining the necessary permits. A Notice of Violation was served requiring plans by a licensed engineer or architect to be submitted for review. Although the applicant has indicated he wanted to appeal this requirement, no appeal has been filed.

7. **Notice of hearings**. Staff feels compelled to point out that this applicant, unlike any others with which staff has dealt over the years, has been unable to provide notice to adjoining property owners in the manner required by Virginia law, and has failed to do that three times over the last several months. After the applicant's failure to provide legal notice for the September and October hearings, staff itself mailed the required notices for the November hearing. At its recent meeting with Mr. Shriver, staff explained the rules for notice again, expressed the importance of providing notice, and emphasized the fact that it was a requirement of Virginia law. Mr. Shriver stated that while he had actually sent letters to neighbors for the November hearing, he simply had not provided the required proof of that fact to staff. He agreed to provide the notice for December, but staff has done so itself in an abundance of caution.

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4/3 18

After 18 months time, and repeated efforts and zoning citations by staff, the applicant refuses to comply with several conditions of the special use permit. The landscaping, signage and paving requirements above will make his site more attractive and unified with the neighboring properties on Duke Street. Correction of the building code violations are necessary to comply with state law and for the safety of the public. Staff recommends that the Commission amend the landscaping condition and require that all outstanding issues, including landscaping be addressed and resolved within six months of approval, or by May 4, 2002. Staff has also proposed that the review condition be amended to require an official staff review in six months to assure such compliance.

Attachment: Staff proposed landscape plans, Alternatives #1 and #2.

Date: May 23, 2002
To: Planning Commission
From: Barbara Ross
Re: Dancing Peppers
SUP #2002-0026

After the attached report was printed for the June docket, Yolanda Martinez, a partner of Tripp Shriver, met with staff to go over the outstanding violations at Dancing Peppers restaurant. She apologized for not having completed the work required by the Commission and Council and agreed to try to get as much of it done as possible prior to the Commission hearing. Specifically, she hopes to have the dumpster screening completed and the sign lowered by that time. As to the landscaping, she explains that there are financial reasons why the restaurant has not done the work, and why it will be difficult to do the work in the near future. She did discuss her ideas about landscaping and agreed to submit a proposed plan that meets both staff and the restaurant's goals. She intends to install the landscaping herself.

June 4, 2002

To: Planning Commission:

From: Dancing Peppers Cantina
4111 Duke Street

In an effort to expedite the proceedings we would like to outline our position. First let us address the violations.

Condition #17- It is our understanding that the intent of screening our dumpster was to prevent anyone from seeing the dumpster from in front of our building along the sidewalk. We have constructed a fence blocking the view of the dumpster from the sidewalk. We feel we have meet this condition and feel there should be no further action necessary.

Condition #19-We have been working with staff to come up with a landscape plan which is both affordable from our perspective and acceptable from staff's perspective. If we can come up with an agreement and we are still within the planting season we would expedite implementation of the landscape plan. However, in order for it to be affordable we would have to do this landscaping in two phases. The first to encompass the trees, shrubbery and walls which staff is requiring. We will require staff to provide us with a list of acceptable "street trees."

Condition #20- We have contracted a local sign company and the lowering of the sign to the 15 foot height is scheduled for June 10, 2002.

We are asking for an amendment to four other conditions.

Condition #2- We would like the wording to be changed to "A total of 196 seats should be permitted indoors and outdoors." The reason for this change is we have a permit to increase our outside dinning area and need to up our seating capacity of the restaurant. We have a total of 49 parking places which meets the 1 parking place per 4 seats requirement.

Condition #3- We would like to have deleted as it is covered in Condition #2.

Condition #9- We would like the wording to be changed to "Live Entertainment shall be permitted as background entertainment only. A maximum of 6, live entertainment events to conclude by 10pm shall be permitted in the outdoor dinning area per year".

Condition #18- We would like to have deleted as it has been completed.

Again let us reiterate that we are working diligently to reach total compliance of our SUP. However, we are not a large corporate operation and we are under the constraints of cash flow. We hope for your understanding and look forward to resolution of all issues in a timely manner. We appreciate the efforts of staff in working with us.

CITY COUNCIL
MINUTES
SAT. DEC 15, 2001

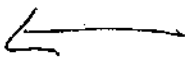
The following persons participated in the public hearing on these items:

Ahmad Amarlooi, 315 Madison Street, the applicant, spoke in support, and stated that he is in agreement with the staff recommendation regarding the outdoor seating plan and the encroachment; and

Roger Machanic, 430 South Fairfax Street, the property owner, was in attendance in support of the applicant.

WHEREUPON, upon motion by Councilwoman Eberwein, seconded by Councilwoman Pepper and carried unanimously, City Council upheld the Planning Commission with regard to SUP #2001-0069, deleting Condition #3, and with regard to the encroachment 2001-0007, upheld the staff's new recommendation as outlined in the December 12, 2001 memorandum. Those new conditions read as follows: "1. **Outdoor seating is permitted which generally complies with the attached plan proposed by the applicant, which includes eight seats at four tables and plantings to include a large evergreen bush against the building plus planters, a low fence, and plantings at the perimeter of the outdoor dining area, all to the satisfaction of the Director of Planning and Zoning.**"; and "2. **Must at all times keep at least four feet of the public sidewalk clear for pedestrian access.**" The voting was as follows:

| | | | |
|----------|-------|-----------|-------|
| Eberwein | "aye" | Cleveland | "aye" |
| Pepper | "aye" | Euille | "aye" |
| Donley | "aye" | Speck | "aye" |
| | | Woodson | "aye" |

14. **SPECIAL USE PERMIT #2001-0061 -- 4111 DUKE ST -- DANCING PEPPERS** -- Public Hearing and Consideration of a special use permit review of restaurant; zoned CC/Commercial Community. Applicant: Grupo Dos Chiles, LLC, by Alfred W. Shriver, III. 

COMMISSION ACTION: Recommend approval 7-0

(A copy of the Planning Commission report dated December 4, 2001, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No.14; 12/15/01, and is incorporated herewith as part of this record by reference.

A letter dated December 14, 2001, from applicant A. W. Shriver, III, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 2 of Item No.14; 12/15/01, and is incorporated herewith as part of this record by reference.)

Applicant Shriver responded to questions from Members of Council, and Fire Chief Hawkins, and Planning and Zoning Deputy Director participated in the discussion on the outstanding code violations.

Councilwoman Pepper directed questions to Planning and Zoning Deputy Director Ross about the two landscaping alternatives proposed by staff, and Mayor Donley participated in the discussion with the applicant.

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Mayor Donley and Councilman Speck discussed with the applicant the requirement that the height of the sign be lowered, and its timing. Planning and Zoning Deputy Director Ross noted that the original conditions were imposed 14 months ago and not complied with.

WHEREUPON, upon motion by Councilwoman Pepper, seconded by Councilman Euille and carried unanimously, City Council approved the Planning Commission recommendation, **as amended by changing the date in Condition #20 back to May 4, 2002, and on Condition #19, that negotiations will continue on the landscaping, but that it will include four trees.** The voting was as follows:

| | | | |
|--------|---------|-----------|-------|
| Pepper | "aye" | Cleveland | "aye" |
| Euille | "aye" | Eberwein | "aye" |
| Donley | "aye" | Speck | "aye" |
| | Woodson | "aye" | |

15. **SPECIAL USE PERMIT #2001-0065 -- 2700 JEFFERSON DAVIS HY -- AFGHAN RESTAURANT** -- Public Hearing and Consideration of a special use permit review and request to change the ownership and to increase the hours of operation of the restaurant; zoned I/Industrial. Applicant: Afghan Restaurant, by Harry P. Hart, attorney.

COMMISSION ACTION: Recommend approval 7-0

(A copy of the Planning Commission report dated December 4, 2001, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 1 of Item No.15; 12/15/01, and is incorporated herewith as part of this record by reference.

A copy of a letter dated December 14, 2001, from Harry P. Hart, attorney for the applicant, is on file in the office of the City Clerk and Clerk of Council, marked Exhibit No. 2 of Item No.15; 12/15/01, and is incorporated herewith as part of this record by reference.

Communications received on this item are on file in the office of the City Clerk and Clerk of Council, marked collectively as Exhibit No. 3 of Item No.15; 12/15/01, and is incorporated herewith as part of this record by reference.)

The following persons participated in the public hearing on this item:

Harry P. Hart, 307 North Washington Street, attorney for the applicant, was available to answer questions. He clarified that the applicant is no longer requesting expansion of its closing time but will return with that request at the time of its six-month review; and

For the record, Mayor Donley commended Mr. Hart for working with the applicant in improving what was a tenuous situation for them six or seven months ago.



City of Alexandria, Virginia

DEPARTMENT OF PLANNING AND ZONING

301 King Street, Room 2100

P. O. Box 178

Alexandria, Virginia 22313

(703) 838-4666

FAX (703) 838-6393

SUP 2002-0026
file
SUP 2001-0061



February 25, 2002

Grupo Dos Chiles LLC
c/o Mr. Tripp Shriver
4111 Duke Street
Alexandria, VA 22304

Re: Dancing Peppers SUP #2001-0061

Dear Mr. Shriver:

The above special use permit was approved by City Council on December 4, 2001. A copy is enclosed. As you recall from the hearings on this matter, there were several follow up items that are necessary in order to comply with the conditions of the SUP. We are reminding you now about these issues so there will be no misunderstanding and so that you have ample time to complete the required work.

First, the following items must be completed by May 4, 2002:

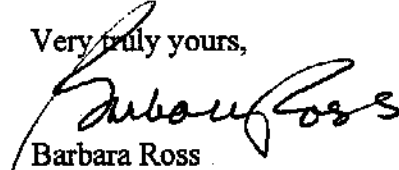
1. All screening around the storage trailer, outbuildings and dumpster must be completed.
2. The required landscaping must be installed. Although there is room for discussion with staff about varying the details of our proposed landscape plans, the final plan must be approved by staff before the installation and must include four street trees.
3. The freestanding sign must be reduced in height to a maximum of 15 feet.
4. The pavement at the rear of the parking lot must be repaired.

In addition, you must show compliance with the remaining requirements of the permit and resolve the building and fire code issues that were discussed at length at the hearing in December. If any of these issues are not resolved, your case will be docketed for hearing in June 2002, so that staff may report to the Planning Commission and City Council. If all of these issues are resolved, then no hearings will be required.

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If you have any questions, or need information, or when you are ready to discuss your specific plan for compliance, please contact me directly.

Very truly yours,



Barbara Ross
Deputy Director

cc: Eileen Fogarty, Director

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Barbara
SUP 2002-0026



City of Alexandria, Virginia



DEPARTMENT OF PLANNING AND ZONING
301 King Street, Room 2100
P. O. Box 178
Alexandria, Virginia 22318
(703) 838-4666
FAX (703) 838-6393

May 13, 2002

Mr. Tripp Shriver
Dancing Peppers Restaurant
Grupo Dos Chiles LLC
4111 Duke Street
Alexandria, VA 22304

Re: Potential Revocation of Special Use Permit

Dear Mr. Shriver:

Last December, you were given six months within which to meet the requirements that the City imposed as part of its special use permit approval of the Dancing Peppers Restaurant. As of today, you have not complied in the following particulars:

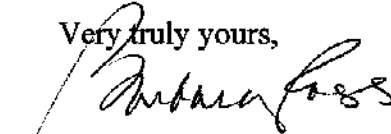
1. A landscaping plan has not been approved by the Director, and landscaping has not been installed, as required by Condition 19 of your permit. You were given the ability to work with staff on a revised plan, but have not contacted us.
2. The pole sign for the restaurant has not been lowered to a maximum height of 15 feet, as required by Condition #20.
3. The screening around the dumpster has not been completed to the Director of Planning and Zoning's satisfaction, as required by Condition #17. Specifically, it is open on one side and visible to the public.

Each of these requirements was imposed as part of your permit adopted on July 17, 2000, and December 15, 2001. In addition, the front porch remains without a building or fire protection permit, as required. As a result of your noncompliance, the special use permit for the restaurant will be docketed for hearings on June 4, before the Planning Commission, and on June 15, before City Council. Staff will be recommending revocation of the permit at that time, based on your continued noncompliance. If the permit is revoked, the restaurant will have to cease operation. We are notifying you of these hearings so that you may be present. We will provide the notice letters required for the hearing.

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If you have any questions, or wish additional information, please do not hesitate to contact me.

Very truly yours,



Barbara Ross
Deputy Director

cc: Eileen Fogarty, Director
Phil Sunderland, City Manager
Arthur Dahlberg, Director, Code Enforcement

City of Alexandria, Virginia

MEMORANDUM

DATE: JUNE 20, 2002
TO: CHAIR AND MEMBERS OF THE PLANNING COMMISSION
FROM: EILEEN FOGARTY, DIRECTOR, PLANNING AND ZONING
SUBJECT: DANCING PEPPERS RESTAURANT
SUP #2002-0026



At its hearing on June 5, 2002, the Commission deferred the Dancing Peppers case in light of representations made by the applicant. Specifically, the applicant stated that it would:

- lower the pole sign, as required by Condition #20;
- fully enclose the dumpster, as that was staff's requirement, as required by Condition #17; and
- work with staff on an acceptable landscape plan, as required by Condition #19.

This memorandum provides an update on the status of these matters. The attached staff report has not been changed since the June hearing.

Lowering the sign. The sign has now been lowered to the requisite height.

Enclosing the dumpster. The dumpster has not been completely enclosed, as staff has required, although at the hearing and at a subsequent meeting with staff the applicant agreed to do it.

Preparing a landscape plan. As to a landscape plan, staff asked the applicant to meet on the issue on June 6, 2002, following the Commission hearing. Staff invited a landscape architect working with Planning and Zoning, Ann Anderson of EDAW, Inc., and Commission member Larry Robinson, to attend the meeting. The result of that meeting was a landscape plan that meets the applicants goals as well as staff's (see attached plan). It is a partial plan, covering only the front part of the landscape beds, and there is no approved plan yet for the second phase of the work. As to the first phase, the applicant advised that it would be installed or at least begun by the time of the Commission's July hearing. However, it has not been started as of this date. Ms. Martinez, with whom staff has been dealing, is evidently out of the country.

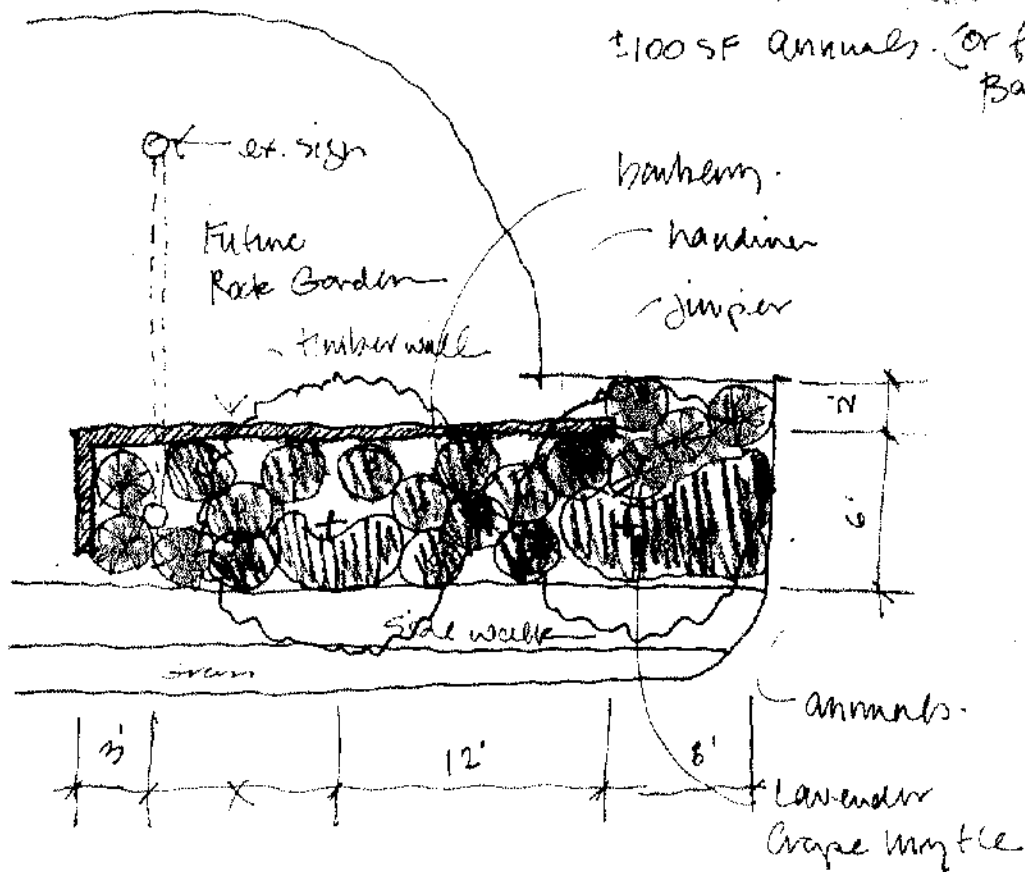
In light of the progress toward full compliance, staff recommends that the revocation case be deferred until September, by which time the dumpster should be fully screened and the landscaping installed.

Attachment: Landscape plan prepared by Ann Anderson, city consultant, and agreed to by the applicant and staff. The plan drawing shows only one landscape bed. The second one, on the opposite side of the driveway, is to be developed as a mirror image.

PLANT SCHEDULE

- 2 Lagerstroemia indica - low.
- 8 Nandina 'Fire Power'
- 4 Berberis thunbergii 'Red + Yellow'
- 7 Juniperus 'Lemon Thread'
- ±100 SF Annuals (or fill with Barberry)

30



DANCING PEPPERS LANDSCAPE SKETCH REVISION

6.6.02

hts.

SUP 2002-0026



City of Alexandria, Virginia



DEPARTMENT OF PLANNING AND ZONING

301 King Street, Room 2100

P. O. Box 178

Alexandria, Virginia 22313

(703) 838-4666

FAX (703) 838-6393

August 30, 2002

Mr. Tripp Shriver
Dancing Peppers Restaurant
4111 Duke Street
Alexandria, Virginia 22304

Re: SUP #2002-0026

Dear Mr. Shriver:

After we met at my office in July, with Mr. Robinson and Ann Anderson of EDAW, a consultant for the city, Ms. Anderson visited the restaurant site and met with you regarding a new landscape plan for the site. That plan, dated July 31, 2002, shows, instead of trees, a row of photinia shrubs planted against the timber wall so that a green hedge is created. It also allows you to arrange the rear portion of each landscape bed with boulders and cactus, mariachi figures and a wagon, consistent with the southwestern theme of the restaurant. Mr. Robinson and I have reviewed and discussed the July 31 plan and reviewed the existing conditions of the permit. With that background, I discussed with you today the following:

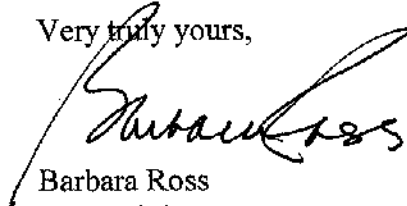
1. Staff can endorse the July 31 plan, provided (a) that the photinia hedge is maintained at a minimum of four feet in height; (b) that sand or gravel covers the rear portions of the beds where the boulders and cactus are; and (c) that the landscape beds are each extended toward the center approximately eight feet. These extensions will require the removal of asphalt and the narrowing of the driveway to a point consistent with the location of the existing curb cut. Within the extended landscape area, we will require an extended timber wall and an extended row of photinia shrubs. You have agreed to extend the beds and to plant consistent with the July 31 plan.
2. The conditions of the existing SUP now require four trees; they also prohibit mariachi figures, a flag pole or more than one nonnatural feature. Staff does not have the power to change the condition language, but will support a change to it if the July 31 plan is implemented. If you proceed with the July 31 plan, be aware that there is the possibility that City Council will not change the condition language. In that case, you will be required to comply with the conditions.

3. The SUP case will be scheduled for hearings before the Planning Commission on October 1 and City Council on Oct 19. Staff will change its position to one supporting the continuation of the SUP, based on your agreement to install the July 31 plan.

4. The one remaining issue is the requirement that you screen the dumpsters completely. Staff requires that you add a third side to the existing screening. You may argue your position at the hearings in October. Staff is not changing its position on this point.

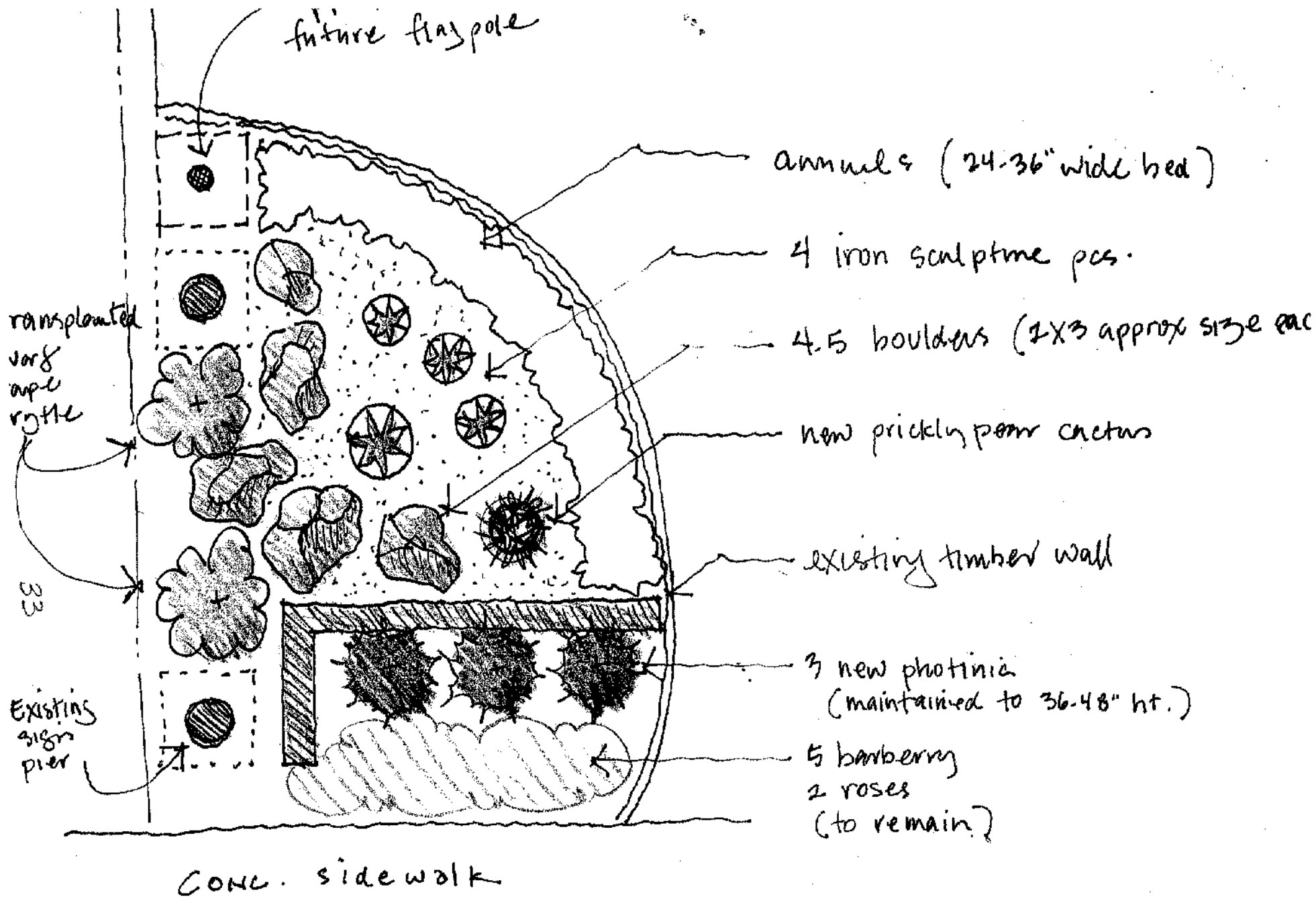
If you have any questions, or need additional clarification, please do not hesitate to contact me.

Very truly yours,



Barbara Ross
Deputy Director

cc: Planning Commission
Ann Anderson, EDAW



DANCING PEPPERS SKETCH (WEST SIDE)

1/4" = 1' 0"

31 July 2002

SLP 2002-0026

BE

Water element and
2 sculpture pos.

4 boulders (24x36" size)

6 potted cactus
(seasonal)

existing timber wall

4 new photinia
(maintained to 36/48" ht.)

6 hollyhock
2 roses
(to remain)

Existing
conc. curb

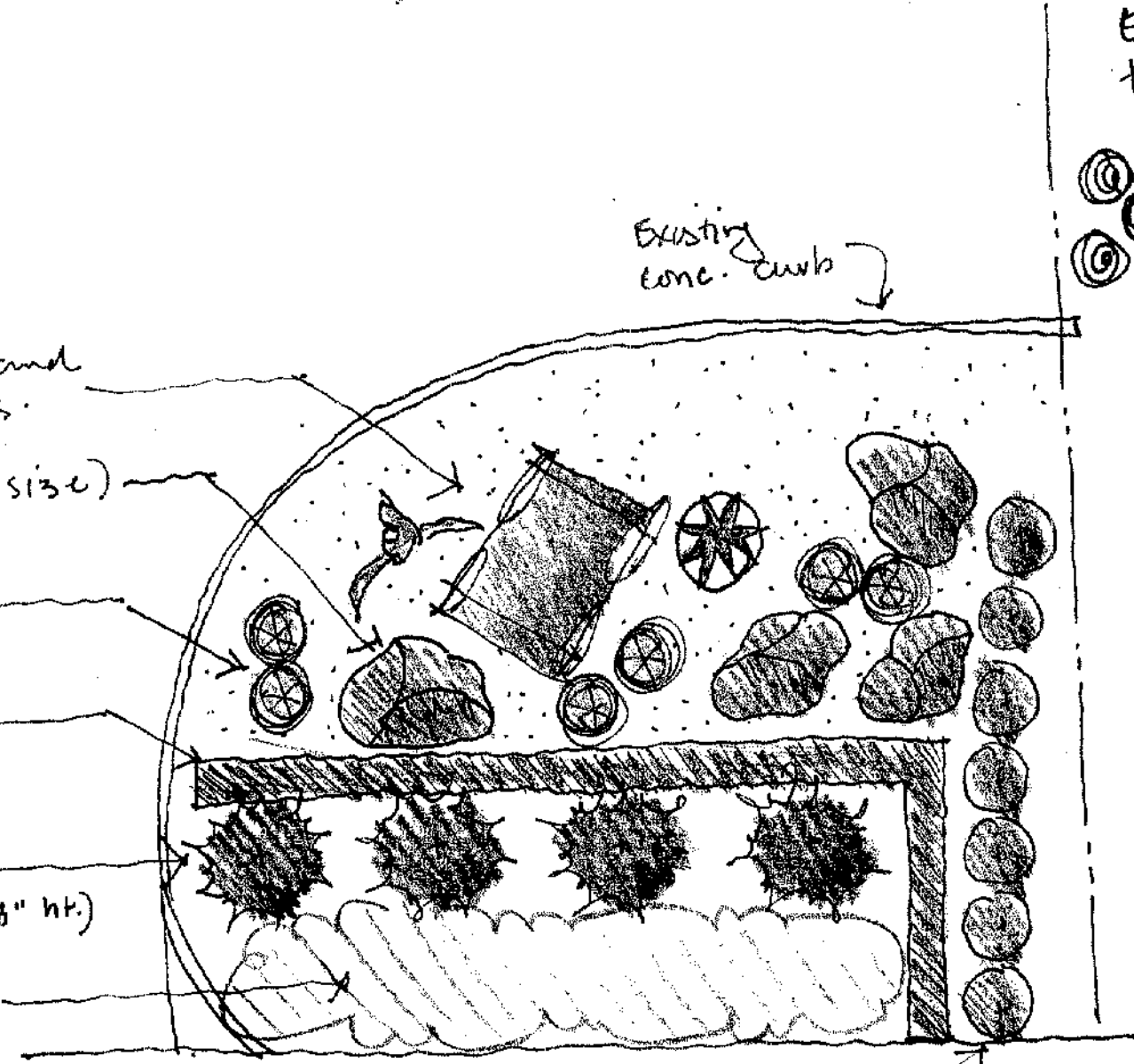
Existing
tree

conc. sidewalk

transplanted
dwarf
nandina

DANCING PEPPERS SKETCH (EAST SIDE)

SUP 2002-0026





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

05-03-00 Wed 11:11am
Date ticket served Day of Week Time AMPM

Location of Violation: 4111 Duke St.

Ord. Section: 11-505

Description of Violation: Condition # 4
(Hours of operation), # 5 and # 6
materials and garbage stored
outside of dumpster

Penalty \$: 50.00

WARNING 1st 2nd 3rd/MORE

IF THE VIOLATION IS NOT CORRECTED BY
May 13 2000 A MONETARY PENALTY
WILL BE ASSESSED. In addition

Michael E. Nelson 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.

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 unappealable if not
appealed within thirty days.

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

NOTICE SERVED ON

NAME: LAST FIRST MIDDLE

PROPERTY OWNER
 COMPANY Saucino Peppers
NAME
Carolina
POSITION

OTHER
4111 Duke Street
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 05/03/00

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 the Certificate of Service to be true to the best of
his/her knowledge.

Signature _____

Print Name _____

Date _____

sup 1774

2-2

TICKET 1852 ✓

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 703-838-4949.

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 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 SUMMONS TO APPEAR IN COURT AND ANSWER TO
THE VIOLATION FOR WHICH THIS NOTICE WAS ISSUED

YOU MUST COMPLETE AND SIGN THIS CERTIFICATION:

ADMIT NO CONTEST CONTEST IN COURT
VIOLATION

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 _____



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

Mar 4 2000 Tues 8:00am
Date ticket served Day of Week Time AM/PM

Location of Violation: 4111 Duke Street
9-104 (F)

Ord. Section: 9-103(B); 9-202(E)(1)

Description of Violation: erecting sign
without authorization, illegal
display of temporary grand
opening banner without permit, illegal
banner

Penalty \$: 50.00

WARNING 1st 2nd 3rd/MORE

IF THE VIOLATION IS NOT CORRECTED BY
April 14 2000 A MONETARY PENALTY
WILL BE ASSESSED. additional

Mark C. Shearer 02
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.

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 unappealable if not
appealed within thirty days.

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

NOTICE SERVED ON enforcement

NAME: LAST FIRST MIDDLE

PROPERTY OWNER
 COMPANY _____
NAME

OTHER _____
POSITION

ADDRESS _____

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 _____

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

Dancing Peppers
Name of Person or Business Served

4111 Duke Street
Address of Service

Alexandria, Va
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.

04/04/00 Signature Mark C. Shearer
Date Print Name Mark C. Shearer
Phone # 738-9666

2-2 TICKET 1811

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 703-838-4949.

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 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 SUMMONS TO APPEAR IN COURT AND ANSWER TO
THE VIOLATION FOR WHICH THIS NOTICE WAS ISSUED

YOU MUST COMPLETE AND SIGN THIS CERTIFICATION:

ADMIT NO CONTEST CONTEST IN COURT
VIOLATION

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 _____



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

5/8/00 Monday 11:00
Date ticket served Day of Week Time/AM/PM

Location of Violation: 4111 Duke St.
Dancing Peppers

Ord. Section: 7-1101

Description of Violation: Storage
trailer without special
use permit; illegal trailer

Penalty \$: 50.00

WARNING 1st 2nd 3rd/MORE

IF THE VIOLATION IS NOT CORRECTED BY
10 days AN MONETARY PENALTY
WILL BE ASSESSED.

Kathleen A. Beaton
Inspector's Signature ID Number

I personally observed or investigated the commission of the violation noted
above and/or violator 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 unappealable if not
appealed within thirty days.

VIOLATORS COPY - WHITE
CITY ATTORNEY COPY - YELLOW
FINANCE COPY - PINK

NOTICE SERVED ON: SUP 1774

NAME: LAST FIRST MIDDLE

PROPERTY OWNER

COMPANY

NAME

POSITION

OTHER

ADDRESS

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

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

Trip Shriver/Dancing Peppers
Name of Person or Business Served

4111 Duke St.
Address of Service

Alexandria VA 22314
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.

5/8/00 Signature Kathleen A. Beaton
Print Name Kathleen A. Beaton

Z-2 TICKET NO. 1845 ✓

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 703-838-4949.

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 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 SUMMONS TO APPEAR IN COURT AND ANSWER TO
THE VIOLATION FOR WHICH THIS NOTICE WAS ISSUED

YOU MUST COMPLETE AND SIGN THIS CERTIFICATION:

ADMIT NO CONTEST CONTEST IN COURT
VIOLATION

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 _____



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

6/6/00 Tuesday 11:25
Date ticket served Day of Week Time AM/PM

Location of Violation: 4111 Duke St.,
Dancing Peppers
Ord. Section: 11-505

Description of Violation: violation of
SUP# 1774 condition
5 - NO food, beverages,
or other material be stored

Penalty \$: 100.00 outside.

WARNING 1st 2nd 3rd/MORE

IF THE VIOLATION IS NOT CORRECTED BY
10 days ADDITIONAL
WILL BE ASSESSED MONETARY PENALTY

Kathleen A. Butler
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.

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 unappealable if not
appealed within thirty days.

NW
VIOLATORS COPY - WHITE
CITY ATTORNEY COPY - YELLOW
FINANCE COPY - PINK

NOTICE SERVED ON: SUP*1774

Fregnan Hugh
NAME: LAST FIRST MIDDLE

PROPERTY OWNER
 COMPANY

NAME _____
POSITION _____

OTHER
4111 Duke St.
ADDRESS
Alex. 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 6/6/00

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 _____

Z-2

TICKET NO. 1901

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 703-838-4949.

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 1800, 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 SUMMONS TO APPEAR IN COURT AND ANSWER TO
THE VIOLATION FOR WHICH THIS NOTICE WAS ISSUED

YOU MUST COMPLETE AND SIGN THIS CERTIFICATION:

ADMIT NO CONTEST CONTEST IN COURT
VIOLATION

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 _____



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**

Nov. 13, 2000 Monday 8:39am
Date ticket served Day of Week Time AM/PM

Location of Violation: 4111 Duke Street

Ord. Section: 9-104 (F), 11-505

Description of Violation: illegal banner
for live entertainment on
Thursdays and Saturdays,
violation of sign by selling
automobile on premises
(cred. five-lane - (51-4277))

Penalty \$: 100.00

1st 2nd
 3rd/MORE

**IF THE VIOLATION IS NOT CORRECTED BY
Nov. 23 2000 AN ADDITIONAL MONETARY
PENALTY WILL BE ASSESSED.**

Inspector's Signature: Marlo C. Wilson ID Number: 102

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: 50 2000-0074

NAME: LAST FIRST MIDDLE

PROPERTY OWNER
 COMPANY

NAME

POSITION

OTHER

ADDRESS

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

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: Nancing Peppers Cantina

Address of Service: 4111 Duke Street

City/State: Alexandria Virginia

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: Marlo Wilson
Print Name: MARLO WILSON
Date: 11/13/00 Phone #: 838-9666

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

2-01

TICKET NO. **2013**

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 _____



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

05/13/02 Monday 11:30
Date ticket served Day of Week Time (AM/PM)

Location of Violation: 4111 Duke St.
Dancing Peppers Restaurant

Ord. Section: 1F-505

Description of Violation: violation of

condition # 17, 19, 20
of SUP* 2001-0061 related
to completely enclosing
 dumpster, landscaping
 installed by May 4, 2002

Penalty \$: 50.00 sign lowered to

1st 2nd 15' by May 4, 2002
 3rd/MORE

IF THE VIOLATION IS NOT CORRECTED BY
15 days AN ADDITIONAL MONETARY
PENALTY WILL BE ASSESSED.

Hathleen Beaman
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

SUP 2001-0061
(COM 2002-0320)

NOTICE SERVED ON:
Martinez Melanda
NAME: LAST FIRST MIDDLE

PROPERTY OWNER
 COMPANY *Dancing Peppers*
NAME

OTHER
POSITION

4111 Duke St.
ADDRESS
ALEX. VA
CITY/TOWN STATE ZIP

[Signature]
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 # _____

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-02 TICKET NO. 2519 ✓

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 _____

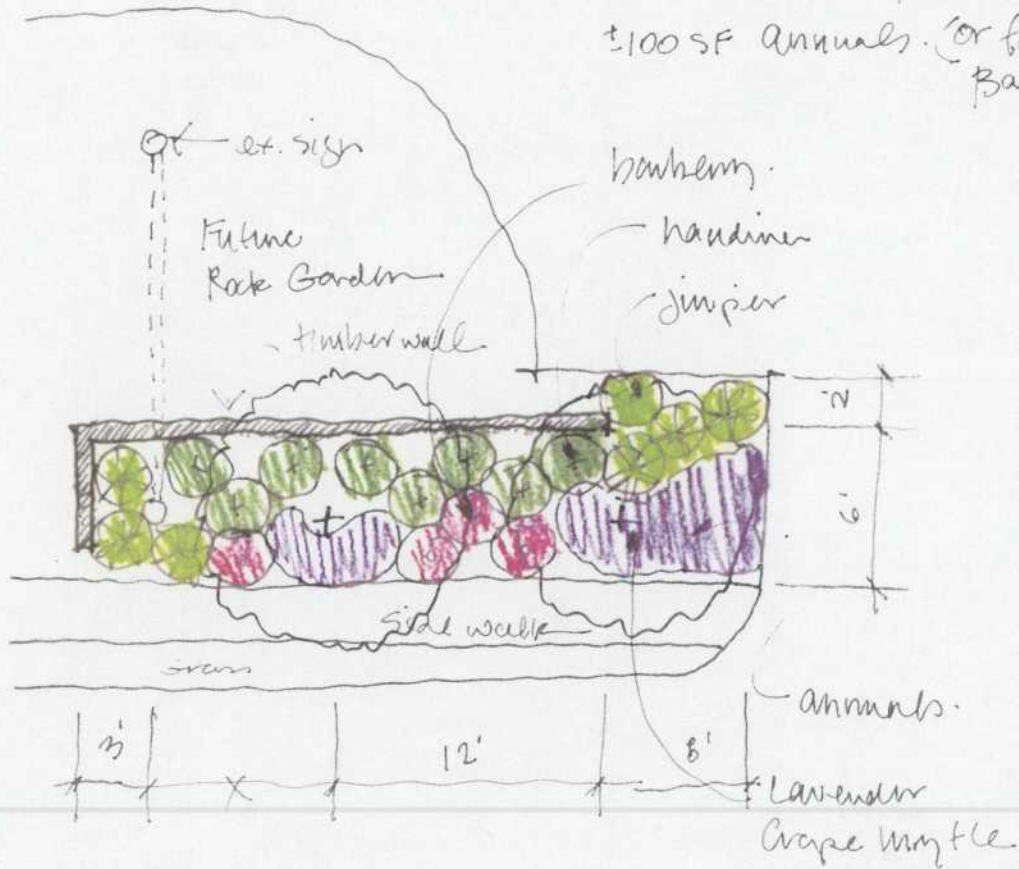
I hereby certify under penalty of law, that I have
answered as indicated above, and corrected or made
substantial efforts to correct the violation that I have
admitted or for which I have pleaded no contest.

Signature _____ Date _____

PLANT SCHED.

- 2 Lagerstroemia indica - Lav.
- 8 Nandina 'Fire Power'
- 4 Berberis thunbergii 'Red + Yellow'
- 7 Juniperus ~~horizontalis~~ 'Lemon Thread'
- ±100 SF Annuals. (or fill with Barberry)

30



65
20

10.19.02
20

DANCING PEPPERS LANDSCAPE SKETCH REVISION

6.6.02

ht.s.

SUP 2002-0026

Waters element and
2 sculpture pos.

4 boulders (24x36" size)

6 potted cactus
(seasonal)

existing timber wall

4 new photinia
(maintained to 36/48" ht.)

6 hawberry
2 roses
(to remain)

Existing
conc. curb

Existing
tree

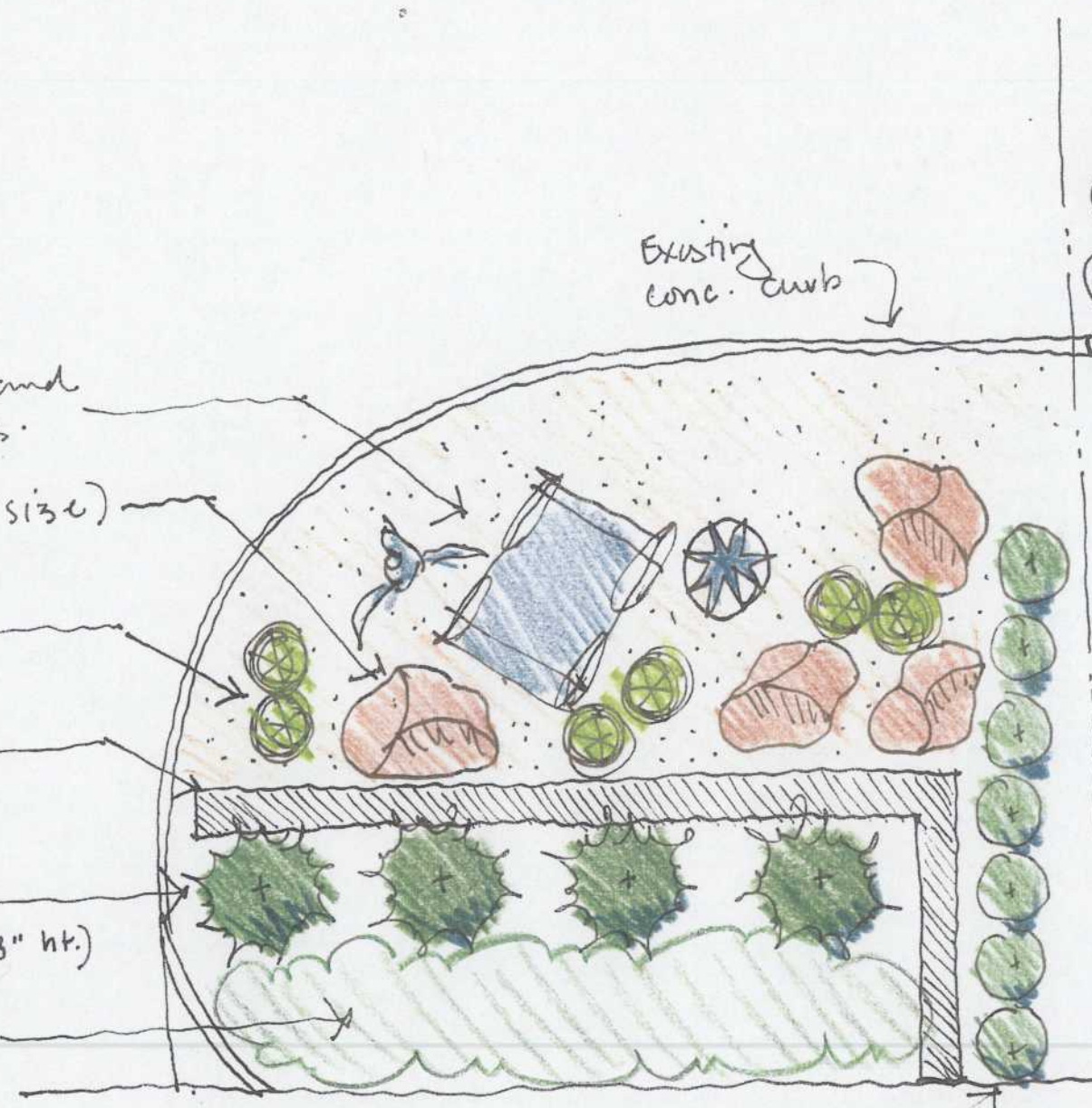
20
10.19.02

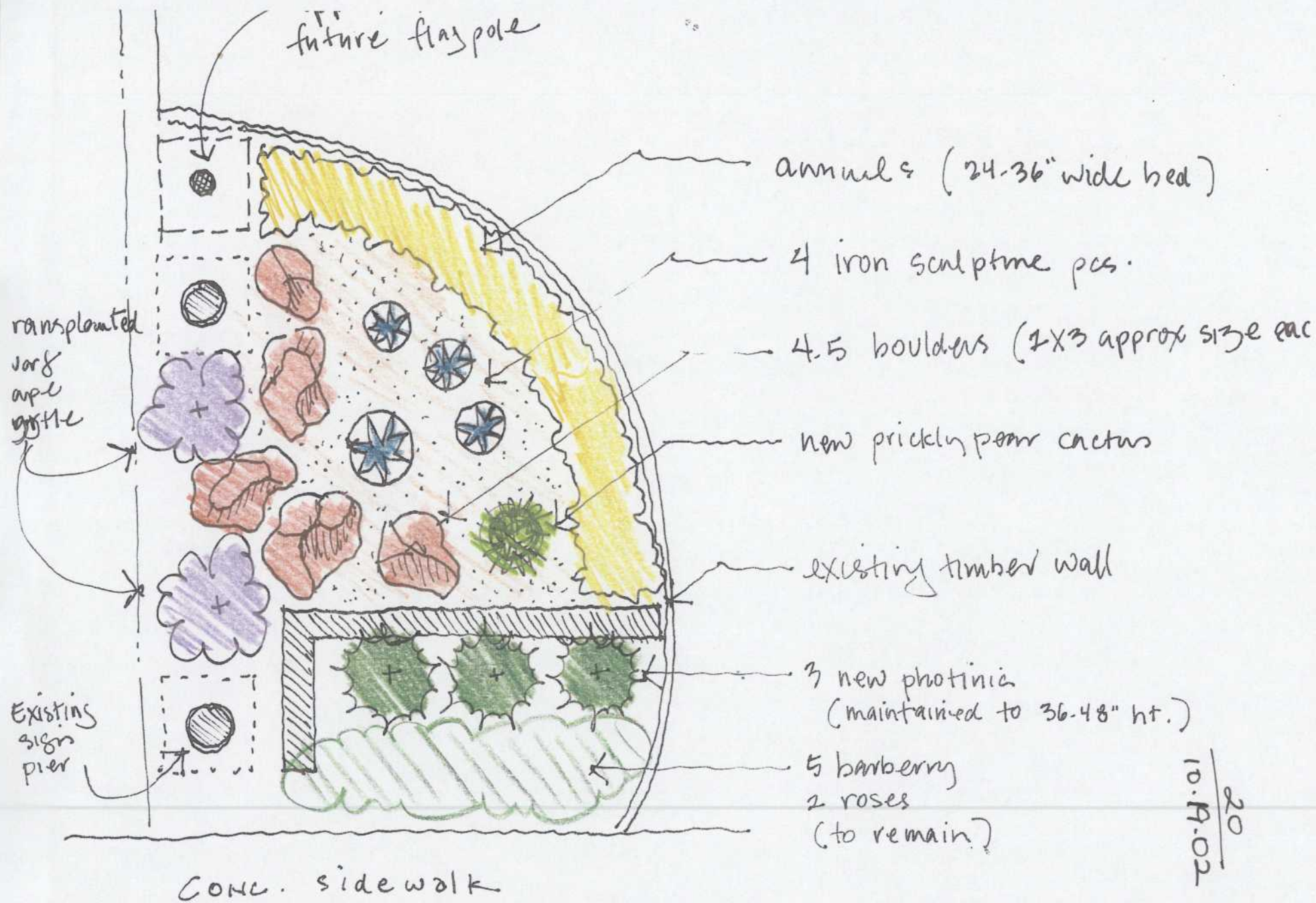
conc. sidewalk

transplanted
dwarf
nandina

DANCING PEPPERS SKETCH (EAST SIDE)

SUP 2002-0026





SUP 2002-0026

DANCING PEPPERS SKETCH (WEST SIDE)

1/4" - 1" = 0"

31 July 2002

City of Alexandria, Virginia

20
10-19-02

MEMORANDUM

DATE: OCTOBER 18, 2002

TO: HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

THROUGH: PHIL SUNDERLAND, CITY MANAGER

FROM: EILEEN FOGARTY, DIRECTOR
PLANNING AND ZONING *Eileen Fogarty*

SUBJECT: DANCING PEPPERS
DOCKET ITEM #20

Condition 2 of this SUP sets out the limit on the number of seats in this restaurant. The applicant has requested that the language be changed as follows:

2. Seating may be provided for no more than 143 patrons, ~~of which no more than 40 seats shall be located on the outdoor area.~~ (CC) (SUP #2000-0074) to include both indoor and outdoor seating.

With this revision, the restaurant can move seats indoors or out, and can exceed 40 seats on the outdoor area, as long as the total number of seats at the restaurant does not exceed 143 at any one time. Staff does not object to the language, which is consistent with the approach taken in other cases with outdoor seating.

20
10-19-02


October 12, 2002

City Council,

We are on this today's Docket, and felt it would be best to present our side prior to being in front of you. As all of you are aware this process has been drawn out far too long. From all that has been accomplished in the past two months between Staff and Dancing Peppers Cantina, we find only one issue still on the table for your debate and ruling. The Staff report and the Planning Commission's ruling show the requirement to put a gate in front of our dumpster to fully screen it. We have enclosed some pictures of our dumpster as well as some from other businesses in the Alexandria area.

We feel the current setup allows for the easy removal of trash without exposing the dumpster to the public view. We have gone through numerous projects, both inside and outside, over the past two years to get our property to comply with the SUP guidelines. Please note the enclosed photos. As you can see from these pictures, our dumpster is screened from the public and others are not.

It is our hope that what Staff and Dancing Peppers Cantina have worked out over the past few months will be finalized with this hearing today. We have requested some wording changes within the SUP which Staff as agreed to change provided City Council agrees. You can review the letter Barbara Ross sent us in your packet for this hearing. We are very anxious to resolve our SUP issues. We are going to have all requirement complete within a two month time frame from the date of your decision.


Alfred W. Shriver, III
Managing Partner


Yolanda Martinez
Managing Partner











DANCING PEPPERS CANTINA



DANCING PEPPERS CANTINA



BR :

APPLICATION for SPECIAL USE PERMIT # 2002-0026

[must use black ink or type]

PROPERTY LOCATION: 4111 DUKE ST (FOXCHASE CTR.)

TAX MAP REFERENCE: 60.01-01-01 ZONE: CC

APPLICANT Name: GRUPO DOS CHILES, LLC

Address: _____

PROPERTY OWNER Name: _____

Address: _____

PROPOSED USE: REVIEW of Restaurant "DANCING PEPPERS"

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.

Print Name of Applicant or Agent

Signature

Mailing/Street Address

Telephone #

Fax #

City and State

Zip Code

Date

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

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

ACTION - PLANNING COMMISSION: 10/01/02 RECOMMEND APPROVAL 6-1

ACTION - CITY COUNCIL: 10/19/02PH -- SEE ATTACHED

REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES (continued)**Planning Commission (continued)**

Councilman Euille asked how this text amendment evolved outside of a friendlier, collaborative process involving business, citizens and others, and Planning and Zoning Deputy Director Ross explained the steps that were taken to notify people of the proposed text amendment.

The Mayor would like staff to develop some guidelines, undertake a formal study group and come up with some discussions. He suggested looking at the definition to see if there is a better way to define exactly what we're talking about in terms of big box retail. This gets to the intensity as opposed to just the overall square footage. Look at the possibility of using overlay zones as an incentive. It is much easier to use our Zoning Code to say where we want things and not where they want them, making overlay zones an important tool here.

Councilman Euille requested that economic impact and design criteria be addressed by staff as well.

A motion was made by Councilwoman Woodson and seconded by Vice Mayor Cleveland to accept the Planning Commission recommendation.

Councilwoman Eberwein offered the following friendly amendments. Staff is to address the following issues regarding grandfathering: That regardless of the change of use, the building would be grandfathered. That regardless of the change of ownership, the building would be grandfathered as was stated by staff. Further, that if it is an expansion below 20,000 square feet, it would be grandfathered, but above that it would not. Additionally, that with regard to a teardown, if the new store is no larger than the square footage of the existing store, plus 20,000 square feet, it would be grandfathered. Beyond that, it would require the full process.

These amendments were accepted by the maker and seconder of the motion, and the motion was passed unanimously.

Council Action: _____

20 SPECIAL USE PERMIT #2002-0026
 4111 DUKE ST
 DANCING PEPPERS RESTAURANT
 Public Hearing and Consideration of review of a special use permit for a restaurant; zoned CC/Commercial Community. Applicant: Grupo Dos Chiles, LLC, by Alfred W. Shriver, III. Staff: Department of Planning and Zoning.

COMMISSION ACTION: Recommend Approval 6-1

In regard to the photographs submitted by the applicant showing other locations with unscreened dumpsters, Councilwoman Pepper requested of staff that if there are problems elsewhere in the City, we need to get these pictures and make sure the same rules apply to these people too.

City Council approved the Planning Commission recommendation with the requirement that there be a gate and fence around the dumpster.

Council Action: _____