

EXHIBIT NO. 1

14  
6-21-05

Docket Item #15  
SPECIAL USE PERMIT #2005-0024

Planning Commission Meeting  
June 7, 2005

**ISSUE:** Consideration of a request for a special use permit for a change of ownership and hours of operation of a restaurant.

**APPLICANT:** Mikhael Copty

**LOCATION:** 814 North Fairfax Street  
Bruscatos Deli

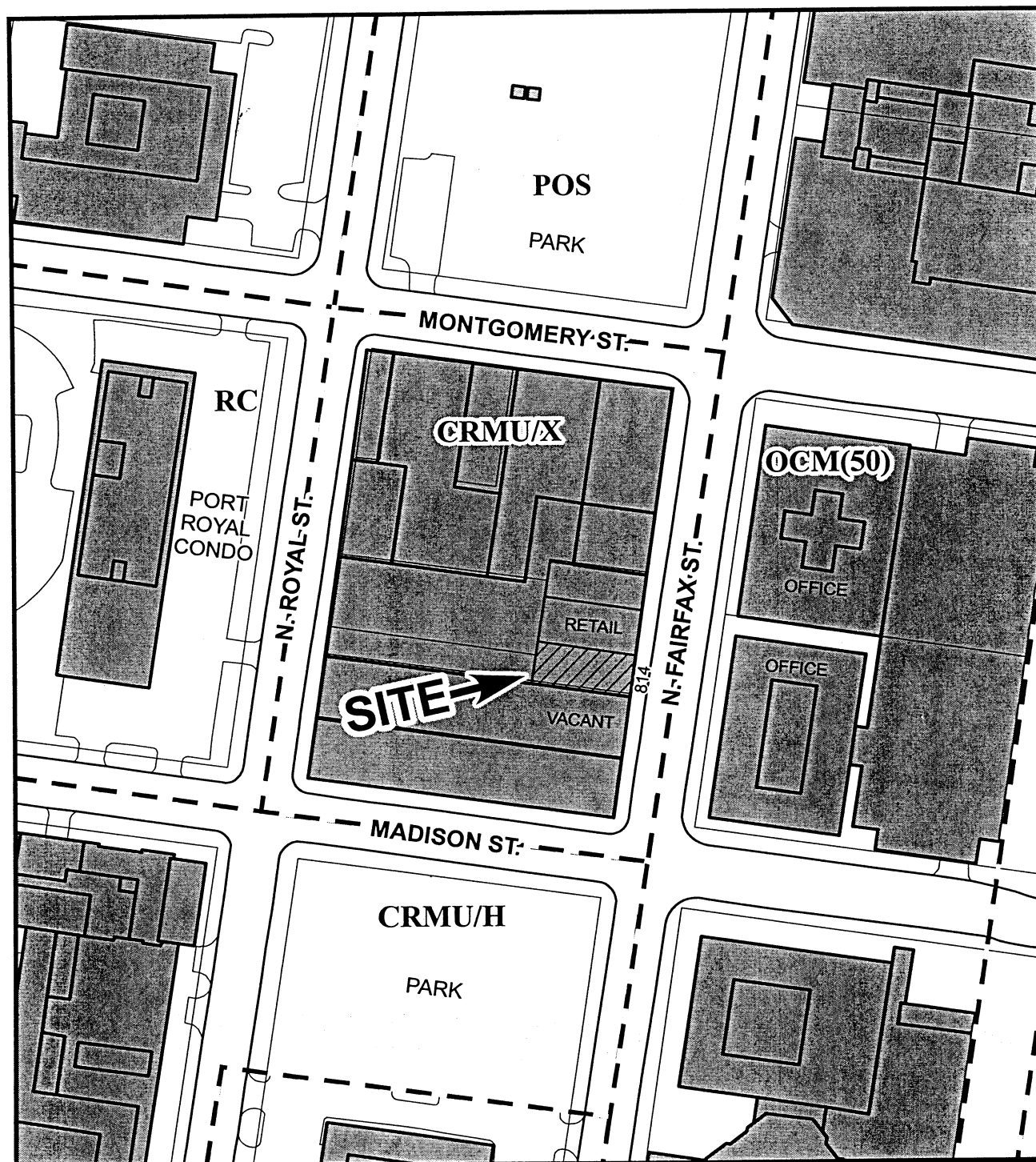
**ZONE:** CRMU-X/Commercial Residential Mixed Use

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**PLANNING COMMISSION ACTION, JUNE 7, 2005:** By unanimous consent, the Planning Commission recommended approval of the request, subject to compliance with all applicable codes, ordinances and staff recommendations.

Reason: The Planning Commission agreed with the staff analysis.

**STAFF RECOMMENDATION:** Staff recommends **approval** subject to compliance with all applicable codes and ordinances and the recommended conditions found in Section III of this report.



**SUP #2005-0024**

**06/07/05**



**I. DISCUSSION**

REQUEST

The applicant, Mikhael Copty, requests special use permit approval to change the hours of operation and ownership of an existing restaurant, Bruscatos Deli, located at 814 North Fairfax Street within the Montgomery Center.

SITE DESCRIPTION

The subject property is one lot of record with approximately 100 feet of frontage on North Fairfax Street, approximately 80 feet of depth and a total lot area of 8,000 square feet. The Montgomery Center is a mixed use development of 92,395 square feet. Immediately to the south is a vacant tenant space, to the north is the Renaissance Tile and Bath Store and across North Fairfax Street, to the east is a five-story office building.

BACKGROUND

On November 6, 1989, City Council granted Special Use Permit #2313 for the operation of a full service and carry-out restaurant at the subject property. On July 3, 1990, City Council granted Special Use Permit #2313-A to add seating to the existing restaurant. On April 7, 1992, City Council granted Special Use Permit #2313-B to Bruscatos Deli for the expansion of a kitchen area of the existing restaurant located at 814 North Fairfax Street. On June 17, 1997, SUP#97-0087, an administrative change of ownership was approved by the Director of Planning and Zoning and issued to Faud G. Farah and Sons.



On March 16, 2005, staff visited the restaurant and found the restaurant to be operating beyond the hours specified in Special Use Permit #97-0087. The applicant filed this applications as a result. Staff found no other violations.

PROPOSAL

The applicant proposes to change the hours of operation and ownership. The existing and proposed hours are as follows:

<u>Existing</u>	<u>Proposed</u>
10:30 a.m. to 7:30 p.m., Monday through Friday	7:00 a.m. to 3:00 p.m., Monday through Friday
10:30 a.m. to 4:30 p.m., Saturday, Closed, Sunday	Closed, Saturday and Sunday

There are no other changes proposed to the existing restaurant. The characteristics of the restaurant are as follows:

- Seating: The existing restaurant has 13 seats.
- Customers: The existing restaurant has approximately 65 customers per day.
- Trash: The existing restaurant has an enclosed area where trash is stored which is shared by the adjacent tenant space. Trash is collected daily.
- Loading: Loading will occur once a week, between 7:00 a.m. and 8:00 a.m. from the street.

#### PARKING

Condition #9 of Special Use Permit #97-0087 requires the applicant to provide a lease agreement for the required three off-street parking spaces. The applicant has submitted documentation of a parking lease agreement with Colonial Parking to the Department of Planning and Zoning. (See attached parking agreement.)

#### ZONING/MASTER PLAN DESIGNATION

The subject property is located in the CRMU-X/ Commercial Residential Mixed Used zone (Old Town North). Section 5-403(V) of the Zoning Ordinance allows a restaurant in the CRMU-X zone only with a special use permit.

The proposed use is consistent with the Old Town North Small Area Plan chapter of the Master Plan, which designates the property for commercial/residential mixed use.

## **II. STAFF ANALYSIS**

Staff recommends approval of the change in hours of operation and ownership of the existing restaurant located at 814 North Fairfax Street, within the Montgomery Center. Staff believes that the proposed hours are compatible with the existing retail, restaurant and service oriented uses in the shopping center.

The applicant's proposed hours of operation are between 7:00 a.m. and 3:30 p.m. Monday through Friday. Staff recommends hours of operation from 7:00 a.m. to 7:00 p.m. seven days week. These hours of operation are the same as Perks Coffee Shop and Suns' Cafe, two other restaurants in the 800 block of North Fairfax Street.

Staff has included a number of standard restaurant conditions, including requiring a security survey and robbery awareness program for employees. Staff has also included a condition requiring a

review of the restaurant after it has been operational for one year so that if there are problems with its operation, additional conditions may be imposed. With these conditions, staff recommends approval of the special use permit.

### III. RECOMMENDED CONDITIONS

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

1. The special use permit shall be granted to the applicant only or to any corporation in which the applicant has a controlling interest. (P&Z)(SUP#2313)
2. Seating shall be provided for no more than 13 patrons. (P&Z)(SUP#2313)
3. That no outside dining facilities be located on the premises. (P&Z)(SUP#2313)
4. No food, beverages, or other material shall be stored outside. (P&Z)(SUP#2313)
5. **CONDITION AMENDED BY STAFF:** ~~That trash and garbage be stored inside or in a dumpster. (P&Z)(SUP#2313)~~ Trash and garbage shall be placed in sealed containers which do not allow odors to escape and shall be stored inside or in a closed container which does not allow invasion by animals. No trash and debris shall be allowed to accumulate on site outside of those containers. (P&Z )
6. **CONDITION DELETED BY STAFF:** ~~That trash and garbage be collected daily when the business is open. (P&Z)(SUP#2313)~~
7. That two (2) standard City trash containers be furnished to the City of Alexandria for installation by the City on the adjacent public right of way. (P&Z)(SUP#2313)
8. **CONDITION AMENDED BY STAFF:** ~~That the hours of operation of the restaurant and convenience store be restricted as shown below, and as requested by the applicant. (P&CD) (SUP #2313-A)~~  
~~10:30 A.M. to 7:30 P.M. Monday through Friday~~  
~~10:30 A.M. to 4:30 P.M. Saturday~~  
The hours of operation of the restaurant shall be limited to between 7:00 a.m and 7:00 p.m. daily. (P&Z)
9. That the applicant provide a lease agreement for three off-street parking spaces prior to the issuance of a Certificate of Occupancy. (P&Z)(SUP#2313)

10. CONDITION AMENDED BY STAFF: That the applicant regularly police the area in front of the restaurant and convenience store and on the public rights-of-way within 75 feet of the premises of trash and litter at least twice a day, (on each day that the business is open to the public) and more often if necessary to prevent an unsightly and unsanitary accumulation. (P&Z)(SUP#2313) 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)
11. CONDITION ADDED BY STAFF: The applicant shall post the hours of operation at the entrance of the business. (P&Z)
12. CONDITION ADDED BY STAFF: Alcoholic beverages are not permitted. (P&Z)
13. CONDITION ADDED BY STAFF: The applicant shall install at least one trash container within the restaurant for customers' use. (P&Z)
14. CONDITION ADDED BY STAFF: The applicant shall conduct employee training sessions on an ongoing basis, including as part of any employee orientation, to discuss all SUP provisions and requirements. (P&Z)
15. CONDITION ADDED BY STAFF: Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers. (T&ES)
16. CONDITION ADDED 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)
17. CONDITION ADDED BY STAFF: The applicant is to contact the Community relations Unit of the Alexandria Police Department at 703-838-4520 for a security survey for the business and a robbery awareness program for the employees. (Police)
18. CONDITION ADDED BY STAFF: The applicant shall encourage its employees to use mass transit or to carpool when traveling to and from work, by posting information regarding DASH and METRO routes, the location where fare passes for transit are sold, and advertising of carpooling opportunities. (P&Z)

19. **CONDITION ADDED BY STAFF:** Loudspeakers shall be prohibited from the exterior of the building, and no amplified sounds shall be audible at the property line.  
(T&ES)
  
20. **CONDITION ADDED BY STAFF:** The Director of Planning and Zoning shall review the special use permit one year after approval and shall docket the matter for consideration by the Planning Commission and City Council if (a) there have been documented violations of the permit conditions which were not corrected immediately, constitute repeat violations or which create a direct and immediate adverse zoning impact on the surrounding community; (b) the director has received a request from any person to docket the permit for review as a result of a complaint that rises to the level of a violation, or (c) the director has determined that there are problems with the operation of the use and that new or revised conditions are needed.  
(P&Z)

STAFF: Eileen Fogarty, Director, Department of Planning and Zoning;  
Richard Josephson, Deputy Director;  
Mary Christesen, Planning Technician.

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

#### IV. 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 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.
- R-3 All loudspeakers shall be prohibited from the exterior of the building and no amplified noise shall be audible at the property line.

##### Code Enforcement:

- C-1 A new fire prevention permit is required due to the change in ownership.

##### Health Department:

- C-1 An Alexandria Health Department Permit is required for all regulated facilities.
- C-2 Permits are non-transferable.
- C-3 This facility must meet current Alexandria City Code requirements for food establishments. A "Change of Ownership Inspection" has been completed by Environmental Health.
- C-4 If changes to the facility are to be done, five sets of plans must be submitted to and approved by this department prior to construction. Plans must comply with the Alexandria City Code, Title 11, Chapter 2, Food and Food Establishments. There is a \$135.00 fee for review of plans for food facilities.



- C-5 Permits must be obtained prior to operation.
- C-6 The facility must comply with the Alexandria City Code, Title 11, Chapter 10, Smoking Prohibitions.
- C-7 Certified Food Managers must be on duty during all hours of operation.
- F-1 This facility is currently operating as Bruscato's under an Alexandria Health permit, issued to F.G. Farah.
- R-1 Provide a menu or list of foods to be handled at this facility to the Health Department prior to opening.

Police Department:

- F-1 The Police Department had no objections to the change in operating hours.

APPLICATION for SPECIAL USE PERMIT # 2005-0024

[must use black ink or type]

PROPERTY LOCATION: 814 N Fairfax ST Alex VA 22314

TAX MAP REFERENCE: 55-03-01-06 ZONE: CRMU-X

APPLICANT Name: Michael F. Cophy

Address: 814 N Fairfax ST Alex VA 22314

PROPERTY OWNER Name: MRE properties

Address: 814 N Fairfax ST Alex VA 22314

PROPOSED USE: Restaurant

Change of ownership and change in hours of operation

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.

Michael Cophy  
Print Name of Applicant/Agent

[Signature]  
Signature

814 N Fairfax ST Alex  
Mailing/Street Address

716843611 716840207  
Telephone # Fax #

Alex VA 22314  
City and State Zip Code

3/10/05  
Date

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

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

ACTION - PLANNING COMMISSION: \_\_\_\_\_

ACTION - CITY COUNCIL: \_\_\_\_\_

All applicants must complete this form. Supplemental forms are required for child care facilities, restaurants, automobile oriented uses and freestanding signs requiring special use permit approval.

1. The applicant is (check one)  the Owner  Contract Purchaser  
 Lessee or  Other: \_\_\_\_\_ of the subject property.

State the name, address and percent of ownership of any person or entity owning an interest in the applicant, unless the entity is a corporation or partnership in which case identify each owner of more than ten percent.

Michael F. Cofy  
814 N Fairfax ST Alex VA 22314

If property owner or applicant is being represented by an authorized agent such as an attorney, realtor, or other person for which there is some form of compensation, does this agent or the business in which the agent is employed have a business license to operate in the City of Alexandria, Virginia?

- Yes. Provide proof of current City business license
- No. The agent shall obtain a business license prior to filing application, if required by the City Code.
2. Submit a floor plan and a plot plan with parking layout of the proposed use. One copy of the plan is required for plans that are 8½" x 14" or smaller. Twenty-four copies are required for larger plans or if the plans cannot be easily reproduced. The planning director may waive requirements for plan submission upon receipt of a written request which adequately justifies a waiver. This requirement does not apply if a Site Plan Package is required.

**NARRATIVE DESCRIPTION**

3. The applicant shall describe below the nature of the request in detail so that the Planning Commission and City Council can understand the nature of the operation and the use, including such items as the nature of the activity, the number and type of patrons, the number of employees, the hours, how parking is to be provided for employees and patrons, and whether the use will generate any noise. (Attach additional sheets if necessary)

change of hours .  
from 1030 AM to 730 PM M-F  
1030 AM to 430 PM SAT  
To  
Monday - Friday 7AM - 330 pm .

**USE CHARACTERISTICS**

4. The proposed special use permit request is for: (check one)

- a new use requiring a special use permit,
- a development special use permit,
- an expansion or change to an existing use without a special use permit,
- expansion or change to an existing use with a special use permit,
- other. Please describe: change hours of operation

5. Please describe the capacity of the proposed use:

A. How many patrons, clients, pupils and other such users do you expect? Specify time period (i.e., day, hour, or shift).

around 65      8-10      15      patron  
10-11      10      patron  
11-2      30      patron  
2-3      10      patron

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

4 or 5      employees

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

Day:

M - F  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Hours:

7 - 3:30  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

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

NONE  
\_\_\_\_\_  
\_\_\_\_\_

B. How will the noise from patrons be controlled?

NONE

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

NONE

9. Please provide information regarding trash and litter generated by the use:

A. What type of trash and garbage will be generated by the use?

empty boxes & customer trash

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

50 # trash

C. How often will trash be collected?

5 times a week

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

Regulatory police the area

10. Will any hazardous materials, as defined by the state or federal government, be handled, stored, or generated on the property?

Yes.  No.

If yes, provide the name, monthly quantity, and specific disposal method below:

chicken ~~skin~~ 80 #  
\_\_\_\_\_  
\_\_\_\_\_

11. Will any organic compounds, for example paint, ink, lacquer thinner, or cleaning or degreasing solvent, be handled, stored, or generated on the property?

Yes.  No.

If yes, provide the name, monthly quantity, and specific disposal method below:

Bleach stored  
Windex stored  
\_\_\_\_\_  
\_\_\_\_\_

12. What methods are proposed to ensure the safety of residents, employees and patrons?

have a sign for wet floor caution  
\_\_\_\_\_  
\_\_\_\_\_

### ALCOHOL SALES

13. Will the proposed use include the sale of beer, wine, or mixed drinks?

Yes.  No.

If yes, describe alcohol sales below, including if the ABC license will include on-premises and/or off-premises sales. Existing uses must describe their existing alcohol sales and/or service and identify any proposed changes in that aspect of the operation.

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

**PARKING AND ACCESS REQUIREMENTS**

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

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

3

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

X Standard spaces

\_\_\_\_\_ Compact spaces

\_\_\_\_\_ Handicapped accessible spaces.

\_\_\_\_\_ Other.

C. Where is required parking located?  on-site  off-site (check one)

If the required parking will be located off-site, where will it be located:

801 N Fairfax ST

Pursuant to section 8-200 (C) of the zoning ordinance, commercial and industrial uses may provide off-site parking within 500 feet of the proposed use, provided that the off-site parking is located on land zoned for commercial or industrial uses. All other uses must provide parking on-site, except that off-street parking may be provided within 300 feet of the use with a special use permit.

D. If a reduction in the required parking is requested, pursuant to section 8-100 (A) (4) or (5) of the zoning ordinance, complete the PARKING REDUCTION SUPPLEMENTAL APPLICATION.

15. Please provide information regarding loading and unloading facilities for the use:

A. How many loading spaces are required for the use, per section 8-200 (B) of the zoning ordinance? 1

B. How many loading spaces are available for the use? None

C. Where are off-street loading facilities located? None, uses street parking.



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

between 7 - 8 am

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

one a week

16. Is street access to the subject property adequate or are any street improvements, such as a new turning lane, necessary to minimize impacts on traffic flow?

NO

**SITE CHARACTERISTICS**

17. Will the proposed uses be located in an existing building?  Yes  No

Do you propose to construct an addition to the building?  Yes  No

How large will the addition be? \_\_\_\_\_ square feet.

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

1300 sq. ft. (existing) + \_\_\_\_\_ sq. ft. (addition if any) = 1300 sq. ft. (total)

19. The proposed use is located in: (check one)

a stand alone building  a house located in a residential zone  a warehouse

a shopping center. Please provide name of the center: \_\_\_\_\_

an office building. Please provide name of the building: \_\_\_\_\_

other, please describe: \_\_\_\_\_

**RESTAURANT SUPPLEMENTAL APPLICATION**

All applicants requesting special use permit approval for restaurants shall complete the following section. Applicants requesting approval of a special use permit for a restaurant in Old Town shall complete the SUPPLEMENTAL INFORMATION FOR RESTAURANTS IN OLD TOWN section and submit the required parking management plan and litter reduction plan.

Please provide the following information:

1. How many seats are proposed?

At tables: 13 At a bar: \_\_\_\_\_ Total number proposed: 13

2. Will the restaurant offer any of the following?

No alcoholic beverages No beer and wine (on-premises)

No beer and wine (off-premises)

3. Please describe the type of food that will be served:

Deli sandwiches and salad  
\_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_ table service \_\_\_\_\_ bar  carry-out \_\_\_\_\_ delivery

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

Will delivery drivers use their own vehicles? \_\_\_ Yes. \_\_\_ No.

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

If yes, please describe: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

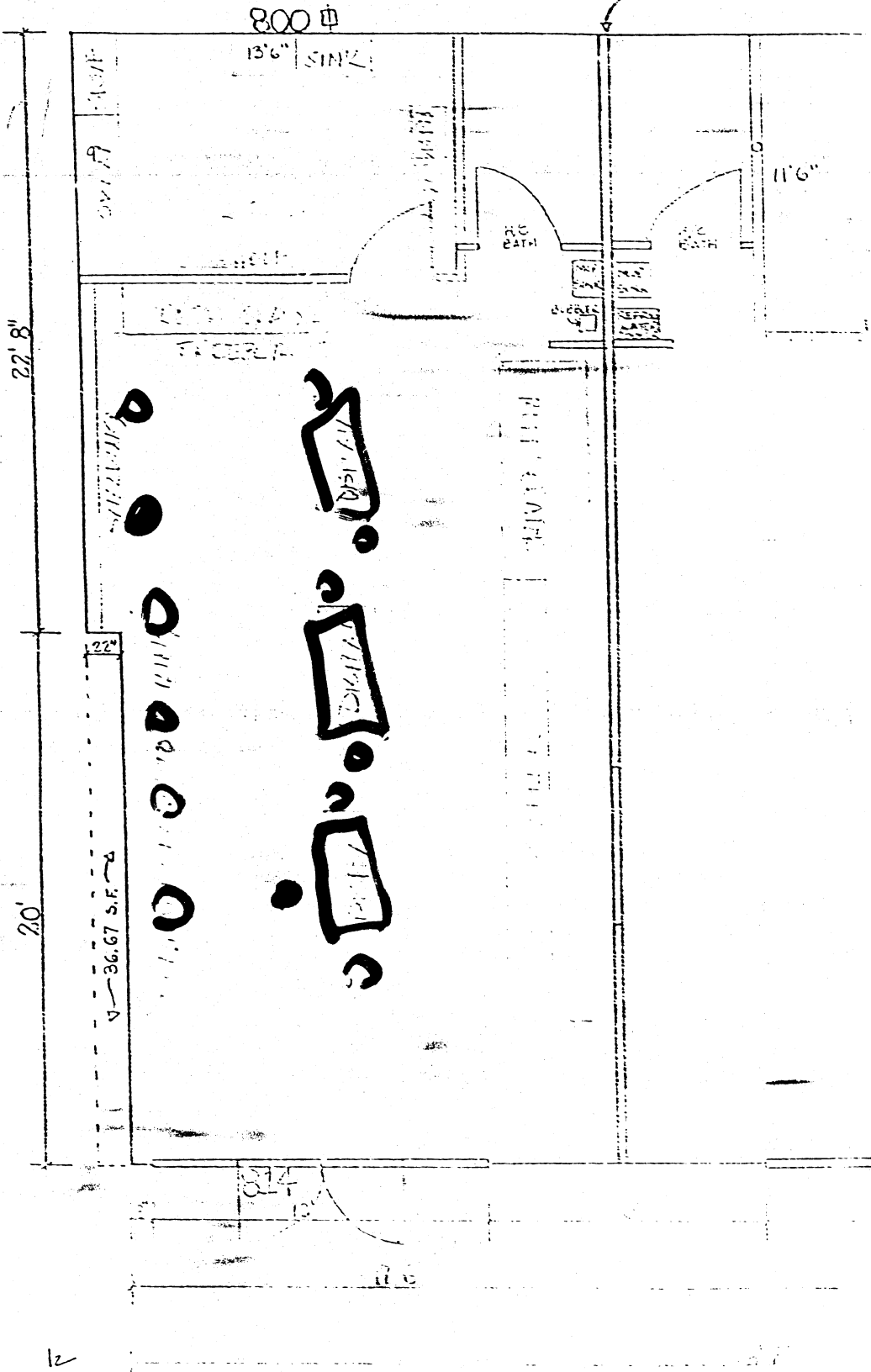
814 N. Fairfax Street

SUP 2005-002

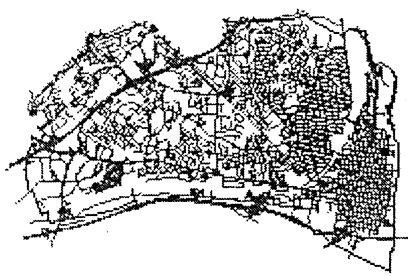
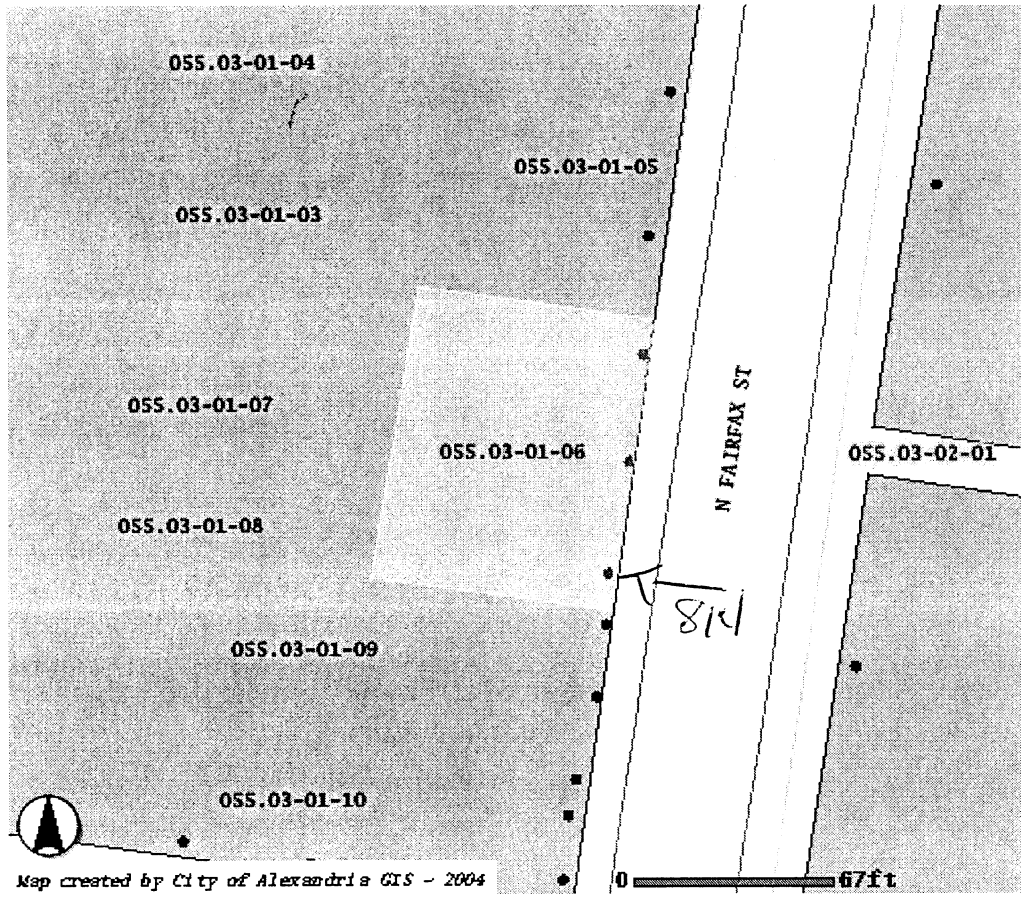
SUP # 2313

PLAN 100  
34' 0" FAIRFAX

FULL WEIGHT  
3" X 11" X 12" SECTION  
SHEET LAY OVER STEEL STUDS



### City of Alexandria



- Legend**  
**Selected Features**
- ◆ Address Points
  - Metrorail Stations
  - Road Centerlines
  - Roads
  - - - Metrorail Tracks
  - +++ Railroads
  - Buildings
  - Parcels

Map Produced: 2/28/2005

20

SUP2005-0024



Colonial Parking #267  
801 N Fairfax st.  
Alexandria, VA 22314

April 27, 2005

To Whom It May Concern:

This is to certify that Bruscatos Restaurant has 3 parking spaces leased from March 1<sup>st</sup>, 2005 to Feb 28<sup>th</sup>, 2006.

The rate is \$120 per space payable at the first of each month.

Colonial Parking  
#276

# APPLICATION for SPECIAL USE PERMIT # 2005-0024

[must use black ink or type]

PROPERTY LOCATION: 814 N Fairfax ST Alex VA 22314

TAX MAP REFERENCE: 55-03-01-06 ZONE: CRMU-X

APPLICANT Name: Michael F. Cophy

Address: 814 N Fairfax ST Alex VA 22314

PROPERTY OWNER Name: MRE properties

Address: 814 N Fairfax ST Alex VA 22314

PROPOSED USE: Restaurant

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Michael Cophy  
Print Name of Applicant or Agent

  
Signature

814 N Fairfax ST Alex  
Mailing/Street Address

71684367 71684207  
Telephone # Fax #

Alex VA 22314  
City and State Zip Code

3/10/05  
Date

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

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

ACTION - PLANNING COMMISSION: UC recommended approval

ACTION - CITY COUNCIL: 6/21/05 CC approved the Planning Commission recommendation 6-