

Docket Item #2
SPECIAL USE PERMIT #2003-0097

Planning Commission Meeting
December 2, 2003

ISSUE: Consideration of a request for an amendment to a special use permit to change the hours of operation.

APPLICANT: Juan Ventura

LOCATION: 3414-A Mt. Vernon Avenue

ZONE: CG/Commercial General

STAFF RECOMMENDATION:

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

1. The special use permit shall be issued to the applicant only or to any corporation in which the applicant has a controlling interest. (P&Z) (SUP #2529)
2. No seating for patrons shall be provided inside or outside the premises. (P&Z) (SUP #2529)
3. **CONDITION AMENDED BY STAFF:** The hours during which the restaurant is open to the public shall be restricted to between ~~11:00 A.M. and 11:00 P.M., Monday through Thursday, 11:00 A.M. and 12:00 Midnight on Fridays and Saturdays, and between 11:00 A.M. and 10:00 P.M., Sunday, 6:00 A.M. and 10:00 P.M., daily,~~ as requested by the applicant. (P&Z) (SUP#2000-0048) (P&Z)
4. No food, beverages, or other material shall be stored outside. (P&Z) (SUP #2529)
5. Trash and garbage shall be stored inside or in a dumpster. (P&Z) (SUP #2529)
6. Trash and garbage shall be placed in sealed containers which do not allow odors to escape and shall be stored inside or in a closed container which does not allow invasion by animals. No trash and debris shall be allowed to accumulate on site outside of those containers. (P&Z) (SUP#2000-0048)
7. Litter on the site and adjacent 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 and unsanitary accumulation, on each day the business is open to the public. (P&Z) (SUP#2000-0048)
8. **CONDITION AMENDED BY STAFF:** No delivery service shall be operated from this location, ~~unless and until the applicant has reviewed and obtained approval for its plans from the Health Department. (Health Department) (SUP#2000-0048)~~ (P&Z)
9. **CONDITION AMENDED BY STAFF:** No ~~beer or wine~~ alcoholic beverages shall be sold. (PC) (SUP #2529) (P&Z)

10. The applicant shall work with the property owner, the other tenants in the shopping center and the City to maintain the lot in good condition, including the landscaping to be installed along the Mount Vernon Avenue frontage of the property. (P&Z) (SUP#2000-0048)
11. The applicant shall post the hours of operation at the entrance to the restaurant. (P&Z) (SUP#2000-0048)
12. The applicant shall install at least one trash container within the restaurant for customers' use. (P&Z) (SUP#2000-0048)
13. **CONDITION AMENDED BY STAFF:** The applicant shall contact the Crime Prevention Unit of the Alexandria Police Department at 703-838-4520 regarding a for a security survey for the business, and a robbery awareness program for all employees. (Police) (SUP#2000-0048) (Police)
14. No amplified sound shall be audible at the property line. (P&Z) (SUP#2000-0048)
15. **CONDITION AMENDED BY STAFF:** The applicant shall control cooking odors and, smoke from the property and any other air pollution from operation at the site to prevent them from leaving the property or becoming a nuisance to neighboring properties, as determined by the Department of Transportation and Environmental Services. (P&Z) (SUP#2000-0048) (T&ES)
16. Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers. (T&ES) (SUP#2000-0048)
17. **CONDITION DELETED BY STAFF:** ~~The applicant shall remove the wall sign and the neon within 30 days of City Council approval. The applicant may install one wall sign which conforms with the Mount Vernon Design Guidelines and is consistent with an overall uniform plan for the shopping center. (P&Z) (SUP#2000-0048)~~
18. **CONDITION AMENDED BY STAFF:** The Director of Planning and Zoning shall review the special use permit one year after approval and shall docket the matter for consideration by the Planning Commission and City Council if (a) there have been documented violations of the permit conditions, (b) the director has received a request from any person to docket the permit for review as a result of a complaint that rises to the level of a violation, or (c) the director has determined that there are problems with the operation of the use and that new or revised conditions are needed. (P&Z) (SUP#2003-0047) (P&Z)

19. **CONDITION ADDED BY STAFF:** The applicant shall obtain permits for all exterior signs within 30 days of City Council approval. All signs shall conform with the Mount Vernon Design Guidelines. (P&Z)
20. **CONDITION ADDED BY STAFF:** The applicant shall require its employees to park in the parking lot behind the building. (P&Z)
21. **CONDITION ADDED BY STAFF:** Meals ordered before the closing hour may be served, but no new patrons may be admitted after the closing hour, and all patrons must leave by one hour after the closing hour. (P&Z)
22. **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 special use permit provisions and requirements. (P&Z)

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.

DISCUSSION:

1. The applicant, Juan Ventura, requests special use permit approval to amend the hours of operation for an existing carry-out restaurant located at 3414-A Mount Vernon Avenue.
2. The subject property is one lot of record with approximately 179 feet of frontage on Mount Vernon Avenue, a depth that ranges between approximately 219 feet and 242 feet, and a total lot area of approximately 38,280 square feet. The site is developed with a shopping center and surface parking area. Tenants in the shopping center include a laundromat, Senor Chicken restaurant, 7-Eleven convenience store, a super market, and Chirilagua Deli.

Adjacent uses include Mr. Wash carwash to the east across Mount Vernon Avenue, Popeye's restaurant to the south, Food Way grocery store and Warwick Village residential development to the south and west.

3. On October 22, 1991, City Council granted Special Use Permit #2529 to Bic Patel to operate a carry-out restaurant known as "Hogs on the Hill." On June 17, 2000, City Council granted SUP #2000-0048 to Ming Feng Lu for "Top Wok Restaurant". On June 10, 2003, a change of ownership, SUP#2003-0047, from Ming Feng Lu to Juan Ventura was approved for the subject space for "Chirilagua Deli".
4. The tenant Juan Ventura has filed a special use permit seeking to amend the hours of operation for the carry-out restaurant in order to serve breakfast. The current and proposed hours of operation are as follows:

	Current Hours of Operation	Proposed Hours of Operation
Monday through Thursday	11:00 A.M. to 11:00 P.M.	6:00 A.M. and 10:00 P.M.
Friday and Saturday	11:00 A.M. to 12:00 Midnight	6:00 A.M. and 10:00 P.M.
Sunday	11:00 A.M. to 10:00 P.M.	6:00 A.M. and 10:00 P.M.

The applicant does not plan to be open late at night. The Mexican and El Salvadorian menu items will be complimented by breakfast items such as scrambled eggs and pancakes.

5. On October 29, 2003, staff visited the subject property. Although staff found no violations of the existing special use permit conditions, it observed various illegal signs. Subsequently, the applicant submitted drawings and dimensions of all signs and is working with staff to obtain sign permits and to comply with all applicable code requirements.

6. The restaurant will be operated by two employees per shift, with two shifts daily.
7. Food and paper constitute the majority of the garbage generated by the use. Garbage is stored in the applicant's dumpster behind the building until it is collected.
8. The existing special use permit includes a condition that required the applicant to work with the property owner, other tenants in the shopping center, and the City to resolve the problems regarding the condition of the site. The condition was generated by citizen concern in 1991 about the site's condition and owner's lack of maintenance. After the 1991 approval, the property owner undertook efforts to improve the condition of the parking lot, police the property for litter, and authorized the Police Department to arrest any trespassers. City staff and the adjacent property owners have also worked together over the years to create a plan to provide landscaping along Mount Vernon Avenue in front of the shopping center and between the subject property and the adjacent Food Way grocery store. A portion of the effort, the construction of a walking and bike path between the subject site and the adjacent parking lot, known as the Landover Path, is completed. Landscaping will be added along the path and in the shopping center along Mt. Vernon Avenue. The installation will be done by the city, but the landowner has contributed to the cost of the project and will be maintaining the portion of his property in future.
9. A carry-out restaurant without seats is treated as a retail use for parking purposes, with a requirement of 1.1 spaces for each 200 square feet of space. A carry-out restaurant with 544 square feet is required to provide three off-street parking spaces. The parking analysis for the previous application indicates a total of 48 required parking spaces for the entire shopping center. However, that number included one required parking space for a delivery vehicle which is no longer in use. Therefore, the current uses of the shopping center require 47 parking spaces. Staff has counted a total of 48 striped spaces on the property, thus being in compliance with code requirements.
10. Zoning: The subject property is located in the CG/Commercial General zone. Section 4-403(Y) of the Zoning Ordinance allows a restaurant in the CG zone only with a special use permit.
11. Master Plan: The proposed use is consistent with the Potomac West Small Area Plan chapter of the Master Plan which designates the property for commercial general use.

STAFF ANALYSIS:

Staff has no objection to the applicant's request to increase the hours of operation for the Chirilagua Deli at 3414-A Mount Vernon Avenue. Staff believes that the earlier hours will not have a negative impact on the applicant's residential and commercial neighbors, and that earlier closing hours are beneficial.

Staff recommends that Council require the applicant to comply with the Mount Vernon Design Guidelines and to obtain sign permits within 30 days of Council approval and has included a condition to this effect.

Staff notes that the technical parking requirement is met. However, in order to reduce the likelihood of the applicant's customers (and other tenants' customers) competing with its employees for parking spaces near the entrance to the restaurant, staff has included language requiring the applicant to require its employees to park in the parking lot behind the building.

Staff has included a condition requiring a review of the restaurant one year after this approval, so that if there are problems with its operation, additional conditions may be imposed. Staff recommends approval of the special use permit.

STAFF: Eileen Fogarty, Director, Department of Planning and Zoning;
Barbara Ross, Deputy Director;
Bettina Irps, Urban Planner.

CITY DEPARTMENT COMMENTS

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

Transportation & Environmental Services:

- C-1 The applicant shall comply with the 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 Loudspeakers shall be prohibited from the exterior of the building, and no amplified sounds shall be audible at the property line.

Code Enforcement:

- F-1 No comments.

Health Department:

- F-1 No objections to expanding hours of operation.

Police Department:

- R-1 The applicant is to contact the Crime Prevention Unit of the Alexandria Police Department at 703 838-4520 regarding a security survey for the business, and a robbery awareness program for all employees.
- R-2 The applicant is not requesting an A.B.C. permit. The Police Department concurs with this.