

Docket Item #33  
SPECIAL USE PERMIT #2004-0045

Planning Commission Meeting  
June 1, 2004

**ISSUE:** Consideration of a request to intensify the use of a restaurant and for a parking reduction.

**APPLICANT:** Fireflies  
by Marylisa Damiani and Daniel Lichens

**LOCATION:** 1501 Mount Vernon Avenue

**ZONE:** CL/Commercial Low

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

## I. DISCUSSION

### REQUEST

The applicant, Fireflies, represented by Marylisa Damiani and Daniel Lichens, requests a special use permit amendment and a parking reduction for the restaurant located at 1501 Mount Vernon Avenue.

### SITE DESCRIPTION

The subject property is one lot of record with 54 feet of frontage on Mount Vernon Avenue, 103 feet of depth and a total lot area of 5,562 square feet. The site is developed with a one story, masonry commercial building. Residential uses are located to the east, south and west of the subject property. Commercial uses line Mount Vernon Avenue to the north.

### CURRENT RESTAURANT CHARACTERISTICS

The Fireflies restaurant has been in business at this location for more than two years. The full service restaurant offers table and take-out service and serves American cuisine.

<u>Customers/Employees:</u>	The business is operated by a total of 25 employees, serving approximately 100 customers per day. Between eight and 12 employees are on site at one time.
<u>Loading/Unloading:</u>	Loading and unloading operations occur daily, Monday through Friday between 8:00 A.M. and 4:00 P.M. The applicant has designated a side entrance towards the rear of the property for loading and unloading.
<u>Trash:</u>	A screened dumpster is located along the Nelson Avenue side of the building towards the rear. Trash is collected twice a week in the summer and once a week during the rest of the year. The applicant monitors the site for littering and provides garbage cans both outside and inside the restaurant.

Staff visited the subject property to determine if the business was in compliance with the conditions of its special use permit. Staff found no violations of the special use permit.

### PROPOSED SUP AMENDMENTS

The applicant seeks permission to amend a variety of conditions in order to intensify and enhance the restaurant operation. Staff notes that the applicant has also filed an encroachment permit because part of its plan is to expand the outdoor seating area by two feet nine inches and to install a railing around it. The following table lists all existing conditions and proposed amendments that are relevant to this application:

	<u>CURRENT RESTAURANT LIMITATIONS</u>	<u>PROPOSED CHANGES</u>
<b>Seating</b> (Cond.#2) (Cond.#3)	68 seats (incl. indoor and outdoor)  Outdoor seats on private property	100 seats (76 indoors, 24 outdoors)  If ENC#2004-0003 is approved, the outdoor seating area encroaches 2' 9" into public right-of-way and is enclosed by a railing.
<b>Enter-tainment</b> (Cond.#4)	No live entertainment permitted.	Live bluegrass music for Sunday brunches.
<b>Deliveries</b> (Cond.#5)	No delivery service is permitted.	Accessory and occasional off-site catering. Applicant will use own car for deliveries.
<b>Hours of Operation</b> (Cond.#6)	7:00 A.M. to 9:00 P.M. Tuesday-Thursday, 7:00 A.M. to 10:00 P.M. Friday & Saturday, 7:00 A.M. to 3:00 P.M. Sunday and closed on Monday.	7:00 A.M. to 12:00 midnight daily to allow flexibility for holidays and special events. The applicant intends to typically close around 10:00 P.M. on weekdays and around 11:00 P.M. on weekends.
<b>Alcohol Sales</b> (Cond.#9)	<i>On-premise:</i> Consumption is limited to beer and wine. <i>Off-premise:</i> Consumption is limited to wine (bottles of at least 750 ml or 25.4 ounces, and an alcohol content of less than 14%).	<i>On-premise:</i> Full ABC license <i>Off-premise:</i> The applicant intends to sell small 375 ml wine bottles, most of which are desert wines and only available in small sizes. Some of these wines may contain more than 14% alcohol content. The average price will be \$15.
<b>Parking Reduction</b>	Parking Reduction of nine spaces (17 required, eight provided)	Parking Reduction of 19 spaces (25 required, six provided)

No other changes are proposed to the operation of the restaurant.

PARKING

The applicant requests special use permit approval for a parking reduction. Pursuant to Section 8-200(A)(8) of the Zoning Ordinance, restaurants must provide one parking space for each four seats. The applicant proposes 100 seats and is thus required to provide 25 parking spaces. There are six spaces located on the subject property. With the existing SUP#2002-0007, City Council approved a parking reduction for nine spaces. The applicant is asking to reduce the parking requirement by an additional ten spaces for a total reduction of 19 spaces. Staff notes that in the process of redesigning the on-site parking lot pursuant to the existing SUP requirements, the applicant had to eliminate two spaces in order to provide safe access and landscaping.

The applicant has an agreement with the Burke and Herbert Bank, located one block away at 306 East Monroe Avenue, to use its parking lot to provide nine off-street parking spaces for Saturday nights and all day and night on Sunday. This parking will be free of charge and available for an indefinite length of time. The applicant also has an agreement to park one car anytime everyday at a relative's house at 410 East Nelson Avenue and up to two cars on the directly adjoining property to the north, which has recently been occupied by a garden center. These spaces become available after the garden center's closing hour.

The applicant also indicates that street parking is available along Mount Vernon Avenue, that the restaurant site is accessible by bus and train lines (Braddock Metro Station), and that many patrons are likely to walk from their homes in adjacent residential neighborhoods. Additionally, a bike rack is provided on-site.

ZONING / MASTER PLAN

The subject property is located in the CL/Commercial Low zone. Section 4-100 of the Zoning Ordinance allows a restaurant in the CL zone only with a special use permit. Section 8-100(A)(4) allows a reduction of the parking requirement with a special use permit. The proposed use is consistent with the Potomac West Small Area Plan chapter of the Master Plan which designates the property for commercial use. The use is also subject to the Mount Vernon Urban Design Guidelines.

**II. STAFF ANALYSIS**

Staff supports the special use permit amendment with the parking reduction for the Fireflies restaurant at 1501 Mount Vernon Avenue.

The restaurant has become a very popular gathering place for the area's residents and is precisely the type of neighborhood serving, small scale use that the City and the neighborhood have worked together to attract and support. While staff is supportive of the use itself, it also applauds the applicant's continued effort to beautify the building and the site by proposing to improve and enclose the patio and to add planters. Staff has worked in a coordinated way with the applicant regarding

changes to the design of the parking lot and the site which not only upgraded the site's appearance but also addressed some concerns of the neighborhood. Such concerns included safety of the parking lot, trash collection, landscaping, and noise. Staff has not received complaints about the restaurant since it opened.

The applicant proposes to continue the restaurant's success and the upgrade of the site by adding seats, some limited entertainment on Sundays and additional hours. Staff considered the following issues in its analysis and recommendation making process :

#### Seats

Staff does not view the proposed number of seats as a problem in the abstract but they do raise questions about parking and hours (see below). The impact of increased seating and activity will be experienced primarily by the ability to serve outdoor diners in nice weather. While the restaurant is close to residential uses, staff supports outdoor seating on Mount Vernon Avenue as a way to enliven the street and, on balance, with noise ordinance restrictions and SUP conditions, believes it should be accommodated.

#### Entertainment/Alcohol

Staff also sees the addition of entertainment on Sundays as a neighborhood amenity and supports it. The proposal to sell smaller wine bottles is consistent with other restaurants in the area, such as the Evening Star Cafe, and will give customers the option to purchase high quality wines for their dinner. Staff has included the same condition language on this point as was included in the Evening Star approval.

#### Parking

An increased parking reduction is necessary for the extra seats requested. Staff acknowledges the potential for parking issues and the potential for business customers parking on residential streets but supports the request based on the neighborhood serving nature of the business, the availability of the on-site parking lot, the on-street parking along Mount Vernon Avenue, the off-site parking at the Burke and Herbert Bank, and the applicant's effort to secure additional parking at 410 East Nelson Avenue and at 1503 Mount Vernon Avenue.

However, because staff is concerned about the proposed increase of the parking reduction it recommends that it be granted but carefully revisited by staff one year after approval. Staff has also retained conditions directing patrons to the Burke and Herbert lot and requiring that employees not park on the street to assist with the parking issue.

#### Hours

Staff is sympathetic to the restaurant's desire to be open later than 10:00 P.M. occasionally and also wants to write restaurant conditions allowing maximum business flexibility. However, given the proximity of residential neighbors and especially for the work week evenings, staff is concerned about the impact of the outdoor dining, particularly with the request to expand the number of seats

outside. Therefore staff is recommending that the hours for indoor and outdoor dining be different. For indoors, staff supports the restaurant's request to be open until midnight daily, especially with the applicant's representation that it will typically close earlier. As to the outdoor seating, other restaurants on Mount Vernon Avenue have the following limits on the hours for the outdoor seating:

Mancini's Restaurant:	8:00 A.M. to 8:00 P.M.
Evening Star Cafe:	8:00 A.M. to 10:00 P.M.
Taqueria Pablano:	10:00 A.M. to 10:00 P.M.
St. Elmo's Coffee:	6:00 A.M. to 9:00 P.M.

In an effort to balance the benefit to the street and community with impacts on neighbors, and consistent with our approach at other outdoor dining areas close to residential uses, staff recommends limiting the closing hour for outdoor dining to 10:00 P.M.

Staff has added and retained several conditions regarding the parking reduction, the operation of the restaurant, and site improvements. The applicant has agreed to comply with these conditions.

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 business or entity in which the applicant has a controlling interest. (P&Z) (SUP#2002-0007)
2. **CONDITION AMENDED BY STAFF:** Seating shall be provided for a total of no more than ~~68~~ 100 patrons, including both indoor and outdoor dining areas. ~~(P&Z) (SUP#2002-0007) (P&Z)~~
3. **CONDITION AMENDED BY STAFF:** Outside dining facilities are permitted in front of the restaurant along Mount Vernon Avenue, generally consistent with the applicant's proposal. Prior to the construction of an outdoor patio, the applicant shall submit plans and obtain approval of the Director of Planning and Zoning for the area's design, material and location. Outdoor dining activities shall not encroach upon the right-of-way: unless an encroachment permit is granted. The applicant shall ensure that access is provided in accordance with building and fire requirements and that the seating area is cleaned at the close of each day of operation. ~~(P&Z) (T&ES) (SUP#2002-0007) (P&Z)~~
4. **CONDITION AMENDED BY STAFF:** ~~No live entertainment shall be provided at the restaurant.~~ Indoor live entertainment shall be permitted in the form of small musical ensembles to the extent that no amplified sound is audible outside the restaurant. No admission or cover fee shall be charged. All entertainment shall be subordinate to the principal function of the restaurant as an eating establishment. Any advertising of the entertainment shall reflect the subordinate nature of the entertainment by featuring food service as well as the entertainment. ~~(P&Z) (SUP#2002-0007) (P&Z)~~
5. **CONDITION DELETED BY STAFF:** ~~No delivery service is permitted.~~ ~~(P&Z) (SUP#2002-0007)~~
6. **CONDITION AMENDED BY STAFF:** The hours of operation for indoor seating shall be limited to between 7:00 A.M. to 9:00 p.m. Tuesday through Thursday, 7:00 A.M.. to 10:00 P.M.. Friday and Saturday, 7:00 a.m. to 3:00 P.M.. Sunday, and closed on Monday and 12:00 midnight daily. The hours of operation of the outdoor dining area shall be limited from 7:00 A.M. to 10:00 P.M. daily. ~~P&Z) (SUP#2002-0007) (P&Z)~~

7. No trash pick-up or loading or unloading operations may occur between 6:00 P.M. and 8:00 A.M. daily. (P&Z) (SUP#2002-0007)
8. The applicant shall post the hours of operation at the entrance to the restaurant. (P&Z) (SUP#2002-0007)
9. **CONDITION AMENDED BY STAFF:** Alcoholic beverages ~~shall~~ may be sold for on- and off-premise consumption. ~~The on-premise consumption shall be limited to beer and wine.~~ The off-premise consumption shall be limited to wine, which may be sold ~~only~~ in bottles of at least ~~750 ml or 25.4 ounces~~ 375 ml. Fortified wine (wine with an alcohol content of 14% or more by volume) in the form of dessert wines, premium ports and sherries and similar wines may be sold. ~~may not be sold.~~ (P&Z) (Police) (SUP#2002-0007) (P&Z)
10. No food, beverages, or other material, except wood used to fuel the oven, shall be stored outside. (PC) (SUP#2002-0007)
11. 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#2002-0007)
12. Any dumpster used on-site shall be screened to the satisfaction of the Director of the Department of Planning and Zoning. (P&Z) (SUP#2002-0007)
13. **CONDITION DELETED BY STAFF:** ~~The applicant shall obtain, at her expense, one Model SD-42 Bethesda Series litter receptacle for installation on the adjacent public right-of-way. Contact T&ES Engineering Division (703/838-4318) for information.~~ (T&ES) (SUP#2002-0007)
14. 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#2002-0007)
15. Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers. (T&ES) (SUP#2002-0007)
16. 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. (T&ES) (SUP#2002-0007)



17. No amplified sound shall be audible at the property line. All loudspeakers shall be prohibited from the exterior of the building. (T&ES) (P&Z) (SUP#2002-0007)
18. The applicant shall require its employees who drive to work to use off-street parking. (P&Z) (SUP#2002-0007) (T&ES)
19. The applicant shall post signs directing patrons to the availability of off-site parking made available by the applicant at the Burke and Herbert Bank located at 306 East Monroe Avenue. (P&Z) (SUP#2002-0007)
20. The applicant shall redesign, repair and stripe the parking lot in a manner generally consistent with staff's attached plan (dated March 2002) to the satisfaction of the Directors of the Department of Transportation and Environmental Sciences and the Department of Planning and Zoning. (T&ES) (P&Z) (SUP#2002-0007)
21. When the City proceeds with its streetscaping and utility undergrounding program for this area, the applicant shall participate in such program for the purpose of installing masonry paving in accordance with Mt. Vernon Avenue Design Guidelines. The applicant shall pay the City of Alexandria to install masonry pavers from the edge of the public right-of-way to the front building wall of the restaurant (on private property). (P&Z) (T&ES) (SUP#2002-0007)
22. **CONDITION AMENDED BY STAFF:** The applicant shall provide and maintain in good condition landscaping generally consistent with ~~staff's attached~~ the approved plan and shall in addition install planters on the patio with seasonal plants and at a size and location (dated March 2002) and to the satisfaction of the Director of the Department of Planning and Zoning. ~~(P&Z) (SUP#2002-0007)~~ (P&Z)
23. The applicant shall contribute \$500 to the City for the City's installation of two street trees in front of 1501 Mount Vernon Avenue to the satisfaction of the Director of the Department of Planning and Zoning and the City Arborist. (P&Z) (SUP#2002-0007)
24. Directional signage attached to the building such as 'No Parking' or 'Loading Area' is allowed. The existing sign on the Nelson Avenue side (southern side) of the subject building shall be removed. A replacement sign of smaller size without internal illumination may be erected on the building to the satisfaction of the Director of Planning and Zoning, after consultation with the applicant and the citizens association. (City Council) (SUP#2002-0007)
25. The applicant shall screen and place the exterior mechanical equipment to the satisfaction of the Director of the Department of Planning and Zoning. (P&Z) (SUP#2002-0007)

26. The applicant shall maintain the existing brick wall located at the southeast corner of the subject lot or replace it with a similar size structure or landscaping to the satisfaction of the Director of the Department of Planning and Zoning. (P&Z) (SUP#2002-0007)
27. **CONDITION DELETED BY STAFF:** ~~The applicant shall contact the Crime Prevention Unit of the Alexandria Police Department for a security survey and a robbery awareness program for all employees prior to operation. (Police)(SUP#2002-0007) (P&Z)~~
28. 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) (SUP#2002-0007)
29. Alterations or repairs to existing exterior lighting fixtures or new exterior lighting fixtures shall be shielded so as not to cause glare onto adjacent residential properties. (T&ES) (P&Z) (SUP#2002-0007)
30. **CONDITION AMENDED BY STAFF:** The Director of Planning and Zoning shall review the special use permit one year ~~after the use becomes operational~~ 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 of the permit conditions, 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#2002-0007) (P&Z)~~
31. **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, and to provide instruction preventing underage sales of alcohol. (P&Z)

32. **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)

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

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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:

- 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 sound shall be audible at the property line.
- R-4 The applicant shall redesign, repair and stripe the parking lot in a manner generally consistent with staff's attached plan (dated March 2002) to the satisfaction of the Directors of the Department of Transportation and Environmental Sciences and the Department of Planning and Zoning.
- R-5 When the City proceeds with its streetscaping and utility undergrounding program for this area, the applicant shall participate in such program for the purpose of installing masonry paving in accordance with Mt. Vernon Avenue Design Guidelines. The applicant shall pay the City of Alexandria to install masonry pavers from the edge of the public right-of-way to the front building wall of the restaurant (on private property).
- R-6 The applicant shall require its employees who drive to work to use off-street parking.
- 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.

##### Code Enforcement:

- F-1 The current approved occupant load is 68 persons (including staff). The proposed increase in occupant load requires a new Certificate of Occupancy and compliance with the USBC for the increased occupant load. The applicant shall submit the appropriate application and paperwork to Code Enforcement in order to determine if the proposed increase in occupants can be achieved.

- C-1 Alterations to the existing structure must comply with the current edition of the Uniform Statewide Building Code (USBC).
- C-2 A new fire prevention code permit is required for the proposed intensification of operation and increase in occupancy. An revised egress plan showing fixture location, aisles and exit doors shall be submitted for review with the permit application.
- C-3 Alterations to the existing structure and/or installation and/or altering of equipment therein requires a building permit. Five sets of plans, bearing the signature and seal of a design professional registered in the Commonwealth of Virginia, must accompany the written application. The plans must include all dimensions, construction alterations details, kitchen equipment, electrical, plumbing, and mechanical layouts and schematics.
- C-4 Required exits, parking, and accessibility for persons with disabilities must be provided to the building.
- C-5 The following code requirements apply where food preparation results in the development of grease laden vapors:
  - (a) All cooking surfaces, kitchen exhaust systems, grease removal devices and hoods are required to be protected with an approved automatic fire suppression system.
  - (b) A grease interceptor is required where there is drainage from fixtures and equipment with grease-laden waste located in food preparation areas of restaurants. Food waste grinders can not discharge to the building drainage system through a grease interceptor.
- C-6 A rodent control plan shall be submitted to this office for review and approval prior to occupancy. This plan shall consist of the following:
  - (a) Measures to be taken to control the placement of litter on site and the trash storage and pickup schedule.
  - (b) How food stuffs will be stored on site.
  - (c) Rodent baiting plan.

Health Department:

- F-1 No objections to proposed amendments.

Police Department:

- R-1 Recommend “ABC On” license only. If “ABC Off” is approved we recommend the following conditions:
1. Beer or wine coolers may be sold only in 4-packs, 6-packs or bottles of more than 40 fluid ounces. Wine may be sold only in bottles of at least 750 ml or 25.4 ounces. Fortified wine (wine with an alcohol content of 14% or more by volume) may not be sold.
  2. That the SUP is reviewed after one year.
- F-1 The applicant has had the security survey and robbery awareness program completed.
- F-2 There have been no calls for police service to this location from January 1, 2003 through March 31, 2004.

**REPORT ATTACHMENTS AVAILABLE IN THE PLANNING AND ZONING OFFICE**