

Docket Item #10
SPECIAL USE PERMIT #2004-0088

Planning Commission Meeting
November 4, 2004

ISSUE: Consideration of a request for a special use permit for an expansion of a restaurant.

APPLICANT: Mejia Brothers, Inc.
by Mariela Vado

LOCATION: 2615 Mt. Vernon Avenue

ZONE: CL/Commercial Low

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, Mejia Brothers, Inc., by Mariela Vado, requests special use permit approval for the expansion of a restaurant at 2615 Mount Vernon Avenue.

SITE DESCRIPTION

The subject property is one lot of record with 50 feet of frontage on Mount Vernon Avenue, 113.6 feet of depth and a total lot area of 5,680 square feet. The site is developed with a single story commercial building which spans two properties and is occupied by four commercial tenants. A parking lot abuts the south side of the building. The parking lot serves the building located at 2609 Mt. Vernon Avenue, most recently occupied by the offices of Sonitrol Security Company, where there is a pending application for a fitness studio. The surrounding land uses include commercial to the north and south along Mount Vernon Avenue, residential immediately to the east and the Mount Vernon Elementary School and Recreation Center to the west.

BACKGROUND

On January 23, 1982, City Council granted Special Use Permit #1447 for the operation of a restaurant, specifically a 24 seat ice cream shop. Since that time, the ownership of the restaurant has changed several times and the operation changed to a pizza restaurant. Most recently, the applicant was approved as the new owner of the restaurant, and has been operating as "Los Tios," offering Mexican and Salvadorean cuisine (SUP#2004-0060).

PROPOSAL

The applicant proposes to expand the restaurant to allow up to 48 seats inside, and 12 seats outside, and to allow on-premise alcohol. The outdoor seating is proposed at the front of the restaurant along Mt. Vernon Avenue on private property, which extends eight feet from the building wall. No other changes are proposed.

PARKING

Pursuant to Section 8-200 of the zoning ordinance, the restaurant is required to provide one parking space for every four seats, or 15 parking spaces. In the past, the restaurant has had an arrangement to use up to six spaces in the Sonitrol lot next door. However, with a proposal for a fitness studio in that building, it is likely that parking will not be available in the lot, and there are no parking spaces on the subject property. To comply with the parking requirement, the applicant secured a parking arrangement with the SunTrust Bank, less than a block to the south at 2809 Mount Vernon Avenue, for up to 16 spaces at all times. The applicant obtained a written agreement from the bank (see attached letter). Section 8-200 (C)(3) of the zoning ordinance allows parking for commercial uses to be located on commercial properties within 500 feet of the use. Therefore, the expanded restaurant meets its parking requirement. There is also on-street parking along Mt. Vernon Avenue in front of the restaurant that is more available than other areas of Mt. Vernon that have more intense commercial activity.

ZONING/MASTER PLAN DESIGNATION

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. The proposed use is consistent with the Potomac West Small Area Plan chapter of the Master Plan which designates the property for commercial use.

DEL RAY LAND USE COMMITTEE

The applicant appeared at the Del Ray Land Use Committee meeting, where the committee supported the proposal with conditions, and added its support for non-amplified, acoustic, live music on the premises.

II. STAFF ANALYSIS

Staff supports the proposal for additional seats, including outdoor seats, and does not object to on-premise alcohol sales. The applicant was able to secure an off-street parking arrangement at a nearby parking lot for all of its required spaces. In addition, the outdoor seating will provide a much needed vibrancy to the streetscape. While this block of Mt. Vernon Avenue is not considered the “core” commercial area as discussed in the Mt. Vernon Avenue planning process, it is an area with some commercial activity that should be encouraged to improve by creating more viable businesses.

Staff recommends a few conditions to reduce the potential for impacts on the surrounding area, including that employees park off the street and be encouraged to use public transit, that the location of the parking lot be posted in the front window of the restaurant, that promotional materials include information about parking and transit options, and that the applicant maintain an off-street parking arrangement for the required number of spaces.

Regarding the addition of live entertainment as proposed by the Del Ray Land Use Committee, staff is supportive of this proposal as it is consistent with a recent approval of live entertainment at Fireflies in Del Ray, and finds that impacts from this activity can be controlled through a condition. Therefore, staff recommends that live entertainment be permitted, but with limitations similar to those approved at Fireflies restaurant, including that no amplified sound be heard at the property line.

Staff has included a condition that approval of the requested number of seats be contingent upon the applicant’s compliance with Code Enforcement requirements.

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 issued to the applicant only or to any business or entity in which the applicant has a controlling interest. (P&Z) (SUP #1751-A)
2. **CONDITION AMENDED BY STAFF:** The seating capacity shall be limited to a maximum of ~~24~~ 48 seats indoors, and 12 seats outdoors, as requested by the applicant. (P&Z) (SUP #1447)
3. **CONDITION AMENDED BY STAFF:** ~~The hours of operation shall be restricted to those as requested by the applicant, 6:00 a.m. to closing hour shall be no later than 10:00 p.m. daily, seven days per week.~~ Deliveries made to the business from the rear alley shall occur only between ~~9:00~~ 8:00 a.m. and 6:00 p.m. daily. (P&Z)
4. Trash and garbage shall be placed in sealed containers which do not allow odors to escape and shall be stored inside or in closed containers which do not allow invasion by animals. No trash and debris shall be allowed to accumulate on site outside of those containers. (P&Z) (SUP #2002-0046)
5. **CONDITION DELETED BY STAFF:** ~~Trash and garbage shall be collected every day that service is available.~~ (P&Z) (SUP #1751-A)
6. Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers. (T&ES) (SUP #1751-A)
7. **CONDITION AMENDED BY STAFF:** Loudspeakers shall be prohibited from the exterior of the building, and ~~N~~ no amplified sound shall be audible at the property line. (P&Z) (SUP #1751-A) T&ES
8. The applicant shall post the hours of operation at the entrance to the restaurant. (P&Z) (SUP #1751-A)
9. No food, beverages, or other material shall be stored outside. (P&Z) (SUP#1751)
10. Condition deleted by staff. (P&Z) (SUP #2003-0003)
11. The applicant shall obtain, at his expense, one Model SD-42 Ironsides series trash container to be placed on the adjacent public right-of-way. The applicant shall

contact T&ES at 703-838-4318. (T&ES) (SUP #2003-0003)

12. Litter on the site and on public rights-of-way 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 #1751)
13. No delivery service is permitted. (P&Z) (SUP #2003-0003)
14. Any improvements to the exterior of the building shall comply with the Mount Vernon Avenue Design Guidelines. (P&Z) (SUP #2003-0003)
15. Condition deleted by staff. (P&Z) (SUP #2003-0003)
16. The applicant shall contact the Crime Prevention Unit of the Alexandria Police Department regarding a security survey and robbery awareness program for the business. The number is 703-838-4520. (Police) (SUP #2003-0003)
17. **CONDITION AMENDED BY STAFF:** Indoor live entertainment shall be permitted 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. No live entertainment shall be provided at the restaurant. (P&Z) (SUP #2002-0046) (P&Z)
18. **CONDITION AMENDED BY STAFF:** On site alcohol service is permitted; no off-premise alcohol sales are permitted. (P&Z) ~~No alcohol service shall be permitted.~~ (P&Z) (SUP #2002-0046)
19. The applicant shall require its employees who drive to work to use off-street parking. (P&Z) (SUP #2002-0046)
20. The applicant shall control cooking odors and smoke from the property to 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) (SUP#2003-0003)
21. **CONDITION AMENDED BY STAFF:** ~~The applicant shall remove or obtain permits for all illegal exterior signs. New Business signs shall be consistent with the Mount Vernon Avenue Design Guidelines, as determined by the Director of Planning and Zoning. The lighting of any business sign shall also be limited to either internal~~

~~or external illumination and will not include both forms of lighting. (P&Z)
(SUP#2003-0003) (P&Z)~~

22. **CONDITION AMENDED BY STAFF:** The applicant shall provide post signs at the front of the building directing patrons to the location of off-street parking, and on the southern side of the building that indicate that restaurant patrons may use the adjacent parking lot. (P&Z) ~~(SUP#2003-0003) (P&Z)~~
23. **CONDITION AMENDED BY STAFF:** The Director of Planning and Zoning shall review the special use permit ~~one year after approval~~ after it has been operational for one year, 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)
24. **CONDITION AMENDED BY STAFF:** The applicant shall conduct employee training sessions on an ongoing basis, including as part of any employee orientation process, to discuss all special use permit provisions and requirements, and to provide instruction preventing underage sales of alcohol. (PC) ~~(SUP#2003-0003) (P&Z)~~
25. **CONDITION DELETED BY STAFF:** ~~The applicant shall remove the existing exterior pay phone.~~ (PC) ~~(SUP#2003-0003)~~
26. **CONDITION AMENDED BY STAFF:** The applicant shall maintain the dumpster screening in good condition, screen the dumpster to the satisfaction of the Director of Planning and Zoning, and the screening shall be maintained in good condition. (PC) ~~(SUP#2003-0003) (P&Z)~~
27. No dumpster service is permitted before 8:00 a.m. (PC) (SUP#2003-0003)
28. **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)
29. **CONDITION ADDED BY STAFF:** The applicant shall maintain an off-street parking arrangement with the SunTrust Bank, or a reasonably equivalent arrangement

to the satisfaction of the Director of Planning and Zoning, for the number of spaces as required by the zoning ordinance for the use. (P&Z)

30. **CONDITION ADDED BY STAFF:** Advertising and promotional material for the restaurant shall include information about parking and public transit options. (P&Z)
31. **CONDITION ADDED BY STAFF:** Outside dining facilities are permitted in front of the restaurant along Mount Vernon Avenue, and shall not encroach upon the public right-of-way. (P&Z)
32. **CONDITION ADDED BY STAFF:** The outdoor dining area shall be cleared and washed at the close of each business day that it is in use. (P&Z)
33. **CONDITION ADDED BY STAFF:** Any enclosure of the outdoor seating area shall be reviewed and approved by the Director of Planning and Zoning prior to installation. (P&Z)
34. **CONDITION ADDED BY STAFF:** Approval of the requested number of seats is contingent upon the applicant's compliance with all Code requirements. (P&Z)

STAFF: Eileen Fogarty, Director, Department of Planning and Zoning;
Valerie Peterson, Urban Planner.

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.(T&ES)
- 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.(T&ES)
- R-3 Loudspeakers shall be prohibited from the exterior of the building, and no amplified sounds shall be audible at the property line.(T&ES)
- R-4 No amplified sounds shall be audible at the property line.(T&ES)
- 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 Based upon the materials submitted, the applicant cannot increase the number of patrons to 60 persons. The total square footage available to customers and the number of exits cannot support the request for 48 customers inside. The request for outdoor seating for 12 patrons is acceptable provided that the approval is for exterior use only and cannot transfer inside due to inclement weather. In addition, the exterior seating shall not obstruct the approved means of egress from the structure or any other adjacent structure at any time. A seating plan for the exterior proposal must be provided for review by Code Enforcement.
- F-2 There are insufficient exits to support the combined increase of staff and 48 patrons within the interior of the structure. The combined occupant load will exceed 50 persons and will require a second approved means of egress from the structure.

- F-3 The applicant should submit a set of signed and sealed plans by a design professional to the Code Enforcement Bureau for a courtesy review which shows how the egress issues and square footage issues will be resolved. The plans should address specific occupant loads within the structure based on use of each area. This should be resolved proper to proceeding with this Special Use Permit.

Health Department:

- F-1 This facility is currently opening as Los Tios Restaurant under an Alexandria health permit issued to Mejia Brothers, Inc.
- C-1 An Alexandria Health Department Permit is required for all regulated facilities.
- C-2 Food must be protected to the point of service.
- C-3 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-4 Permits or approval must be obtained prior to use of the new area(s).
- C-5 This facility must comply with the Alexandria City Code, Title 11, Chapter 10, Smoking Prohibitions both indoors and at the outside dining areas.
- C-6 Certified Food Managers must be on duty during all hours of operation.
- R-1 Provide a menu or list of foods to be handled at this facility to the Health Department prior to opening.

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.
- R-2 The applicant is to contact the Crime Prevention Unit of the Alexandria Police Department at 703-838-4520 regarding a robbery awareness program for all employees.

R-3 Recommend “ABC On” license only. If “ABC Off” is approved we recommend the following conditions:

1. Beer or wine coolers may be sold only in 4-packs, 6-packs or bottles of more than 40 fluid ounces. Wine may be sold only in bottles of at least 750 ml or 25.4 ounces. Fortified wine (wine with an alcohol content of 14% or more by volume) may not be sold.
2. That the SUP is reviewed after one year.