

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

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.

SITE GRAPHIC
AVAILABLE IN THE PLANNING AND ZONING OFFICE

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:

Existing

10:30 a.m. to 7:30 p.m.,
Monday through Friday

10:30 a.m. to 4:30 p.m.,
Saturday, Closed, Sunday

Proposed

7:00 a.m. to 3:00 p.m.,
Monday through Friday

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.

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.

SUP#2005-0024
814 North Fairfax Street

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