

Docket Item #19
SPECIAL USE PERMIT #2005-0084

Planning Commission Meeting
September 8, 2005

ISSUE: Consideration of a request for a special use permit to operate a restaurant.

APPLICANT: My Bakery & Café, Inc.
by Duncan Blair, attorney

LOCATION: 3839 Mt. Vernon Avenue

ZONE: NR/Neighborhood Retail

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

SITE GRAPHIC
AVAILABLE IN THE PLANNING AND ZONING OFFICE

I. DISCUSSION

REQUEST

The applicant, My Bakery & Café, Inc., requests special use permit approval for the operation of a restaurant located at 3839 Mount Vernon Avenue.

SITE DESCRIPTION

The subject shopping center site has approximately 537 feet of frontage on Mount Vernon Avenue and 377 feet of frontage on Bruce Street. The site consists of four parcels with a total lot area of 202,776 square feet (4.6 acres). The site is developed with the Mount Vernon Village Center, an existing small-scale shopping center. The restaurant will occupy a vacant tenant space of 6,203 square feet located at the northernmost tenant space of the center, adjacent to My Organic Market (MOM's) grocery store (see attached plan). The space has been vacant for a number of years. Offices and food preparation space will occupy the basement of the restaurant. Access to the property is from both Mount Vernon Avenue and Bruce Street.



To the north of the site are retail establishments, including Lillian's restaurant, and the Chirilagua Housing Cooperative, to the south are retail establishments including the temporary location of the Duncan Library (in the former Blockbuster Video site), to the east is Four Mile Run Park, and to the west across Mt. Vernon Avenue are the Presidential Greens Apartments.

PROJECT DESCRIPTION

The applicant requests special use permit approval to operate "My Bakery," a full-service restaurant and bakery, offering carry-out and delivery service. The restaurant will offer breakfast, lunch and dinner, to include pastries, breads, cakes, empanadas, sandwiches, entrees and desserts. The applicant anticipates 300 patrons served each day. The proposed location will be the fourth in the region, with the others located in Bailey's Crossroads, Manassas, and Washington (north Georgetown). The applicant proposes this location to be the central offices of the company. Specific aspects of the restaurant as described by the applicant are as follows:

Hours:	Monday through Wednesday	7:00 am to 12:00 midnight
	Thursday through Sunday	7:00 am to 2:00 am

of Seats: 215 total seats—including 163 indoors, 40 outdoors at the east end of the building (back), and 12 outdoors at the west end of the building (front).

- Noise: The applicant does not anticipate that noise levels will exceed what is permitted under the Alexandria City Code.
- Employees: The restaurant will employ on a full or part time basis approximately 50 people working in shifts. It is anticipated that the maximum number of employees on site at any given time will be 30 employees.
- Alcohol: The applicant proposes on-premise beer, wine and mixed drinks. The applicant anticipates the sale of alcoholic beverages to be 20% of its receipts.
- Live Ent'mt.: The applicant proposes live entertainment on certain weekday nights and weekends. The entertainment is expected to be subordinate to the main bakery/restaurant operations.
- Computer Access: The applicant proposes to have computer access, including printing, faxing, and video conferencing capabilities, with Internet connection.
- Delivery: The applicant will provide delivery service, with drivers using their own personal vehicles.
- Loading: The applicant expects to load and unload from 5:00 am to 8:00 am approximately one to four times each day.
- Trash/Litter: The trash and garbage generated by the restaurant will be mainly refuse from products received (i.e. cardboard delivery boxes) and from general restaurant operations. Trash and garbage will be deposited and stored in a commercial dumpster on the dumpster pad at the rear of the building. The applicant anticipates approximately a half dumpster of trash each day, and that it will be collected at least three times each week. Each tenant of the shopping center is responsible for its own receptacle and pickup. Dumpsters are located behind the tenant spaces in required parking spaces near the building. Litter is not an anticipated problem; however, the restaurant's staff will self-police and maintain the exterior grounds, parking lots and adjacent rights-of-way.

PARKING

Under Section 8-200 (A) (8) of the Zoning Ordinance a restaurant with 215 seats is required to have 54 parking spaces. In this case, the subject property has a total of 326 parking spaces for the shopping center and Duncan Library, which will accommodate the restaurant's parking requirement.

ZONING/MASTER PLAN DESIGNATION

The subject property is located in the CDD-6/Mt. Vernon Village Center/Birchmere zone, with an underlying zoning of NR/Neighborhood Retail. Section 4-1403 (C) of the Zoning Ordinance allows smaller restaurants in the NR zone by administrative approval. The proposed restaurant exceeds the limitations and therefore requires approval by Planning Commission and City Council.

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

MEETING WITH NEIGHBORS

On August 25, 2005, staff met with members of the Arlandria-Chirilagua Housing Cooperative, the Tenants and Workers Support Committee, and the applicant. While generally supportive, the community members expressed concerns about the potential for negative impacts from late night activity associated with the proposed closing hour, 2:00 am Thursday through Sunday.

II. STAFF ANALYSIS

Staff does not object to the proposed restaurant located at 3839 Mount Vernon Avenue. From an economic development perspective, the subject space has been vacant for a number of years, and the new business, which includes outdoor dining, will add vibrancy to the neighborhood. This type of active, family-serving restaurant is the kind envisioned in the Arlandria Plan to serve both the immediate neighborhood and attract patrons from the broader community. The restaurant proposes to provide a variety of services to its clientele, including a bakery specializing in made-to-order cakes for all occasions; a full service restaurant providing breakfast, lunch and dinner; technology, including computer access, printing and faxing, and Internet connection; and live entertainment on certain nights and weekends. There is an abundance of parking behind the center that will adequately serve the restaurant. The restaurant use will likely draw pedestrian traffic from the nearby neighborhoods alleviating some demand on parking. The restaurant and bakery will complement and enhance this neighborhood commercial district by adding to the diverse retail uses already found along Mount Vernon Avenue.

While supportive of the new restaurant, staff is sensitive to the concerns of area residents regarding the potential for negative impacts caused from late night activities around the proposed 2:00 am closing hour, Thursday through Sunday. There is a history of problems from Lillian's restaurant, located across Bruce Street from the subject property, which the neighbors do not want duplicated at the proposed restaurant. Lillian's was approved by City Council for a 1:00 am closing hour on Fridays and Saturdays, with a condition of a six-month review (SUP#2002-0001). At the six-month review, City Council reduced the closing hour to 12:00 midnight, which is the hour it is currently permitted to close (SUP#2002-0104).

The Birchmere, located immediately behind the shopping center, is permitted to operate until 2:00 am daily. The Waffle Shop, a grandfathered restaurant across Mt. Vernon Avenue, is open 24 hours. Staff is not aware of significant nuisance problems caused from these establishments.

The applicant has assured staff and community members that he does not intend to create an establishment that invites negative behavior, and that he is requesting the later hours for flexibility that would allow the greatest opportunity for success of the new restaurant. In response to neighborhood concerns, staff recommends a number of conditions to control potential impacts from the restaurant. Regarding hours of operation, staff recommends a closing hour of 1:00 am Thursday through Sunday, and 12:00 midnight on all other nights. These hours are generally consistent with recently approved hours of operation for restaurants in this and other areas of the city. To ensure that problems do not arise, staff recommends a six-month review, in addition to a one-year review, at which time the closing hours can be reassessed if necessary. For the outdoor dining, staff recommends a closing hour of 11:00 pm, daily. Regarding the live entertainment, it is proposed to be subordinate to the primary function of the establishment as a restaurant, and staff has included a condition to this effect. The condition also limits live entertainment to the indoors, and only to the extent that no amplified sound is audible at the property line.

Also to address neighborhood concerns, staff recommends that the applicant schedule community meetings once every two months for the first six months of operation, and regularly as needed and/or requested by the neighborhood or applicant thereafter.

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)
2. The hours of operation of the restaurant shall be limited to 7:00 a.m. to 12:00 a.m. Monday through Wednesday, and 7:00 a.m. to 1:00 a.m. Thursday through Sunday. The hours of operation for the outdoor dining area shall be limited to between 7:00 a.m. to 11:00 p.m., daily. The outdoor dining areas shall be cleared of all diners by 10:30 p.m. and the area shall be cleaned and washed by 11:00 p.m. The rear (east) entrance of the building shall not be used for public access after 10:30 p.m. (P&Z)
3. The applicant shall post the hours of operation at the entrance of the business. (P&Z)

4. No more than 215 seats shall be provided at the restaurant. Of the 215 seats, no more than 52 seats shall be provided outdoors according to the attached plan. Any changes to the outdoor seating plan shall be to the satisfaction of the Director of Planning and Zoning. The applicant shall ensure the outdoor seating does not restrict pedestrian access to other merchants in the shopping center. No seating shall encroach on a public right-of-way. (P&Z)
5. Window signs or posters shall not block the visibility of the interior of the store from the street. Shelving, boxes, coat racks, storage bins, closets, and similar items shall be located where they do not block the windows. All window coverings shall remain open as much as possible. (P&Z)
6. 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)
7. The applicant shall require that employees who drive to work use off-street parking. (P&Z)
8. 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)
9. Live entertainment shall be permitted indoors only to the extent that no amplified sound is audible at the property line. 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) (T&ES)
10. On-site alcohol service is permitted; no off-premise alcohol sales are permitted. (P&Z)
11. Vehicles for delivering orders to customers shall park and load in the parking lot behind the building at the Mount Vernon Village Shopping Center. The delivery vehicles shall be no larger than passenger vehicles. (P&Z)
12. Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers. (T&ES)

13. 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)
14. Loudspeakers shall be prohibited from the exterior of the building. (T&ES)
15. The applicant is to contact the Community Relations 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. (Police)
16. 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 on how to prevent underage sales of alcohol. (P&Z)
17. The applicant shall schedule meetings with surrounding residential neighbors once every two months for the first six months of operation, and then regularly as needed and/or requested by the neighborhood or applicant thereafter, to identify and address any neighborhood impact issues. (P&Z)
18. The Director of Planning and Zoning shall review the special use permit after it has been operational for six months and again at 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, 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;
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.
- 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.
- R-4 No amplified sounds shall be audible at the property line.
- 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 There are overhead power lines and a power pole located in the proposed area of the outdoor deck. This issue shall be resolved at building permit plan review.
- C-1 The current use is classified as M, Mercantile; the proposed use is A, Assembly. Change of use, in whole or in part, will require a certificate of use and occupancy (USBC 119.4) and compliance with USBC 119.2. including but not limited to: limitations of exit travel distance, emergency and exit lighting, a manual fire alarm system, and accessibility for persons with disabilities.
- C-2 Prior to the application for new Certificate of Occupancy, the applicant shall submit a building permit for a change of use. Drawings prepared by a licensed architect or professional engineer shall accompany the permit application. These plans shall show provide existing conditions, construction type data, and a plot plan. In addition, these plans shall show proposed conditions and provide data by the design professional which details how the proposed use will comply with the current edition

of the Virginia Uniform Statewide Building Code for the new use in the area of structural strength, means of egress, passive and active fire protection, heating and ventilating systems, handicapped accessibility and plumbing facilities.

- C-3 New construction must comply with the current edition of the Uniform Statewide Building Code (USBC).
- C-4 Alterations to the existing structure must comply with the current edition of the Uniform Statewide Building Code (USBC).
- C-5 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-6 This structure contains mixed use groups [A, Assembly; M, Mercantile; B, Business; and is subject to the mixed use and occupancy requirements of USBC 302.3
- C-7 A fire prevention code permit is required for the proposed operation. An egress plan showing fixture location, aisles and exit doors shall be submitted for review with the permit application.
- C-8 Required exits, parking, and accessibility for persons with disabilities must be provided to the building.
- C-9 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-10 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.
- C-11 Any configuration of outdoor seating shall comply with the following conditions:
- Fire Dept. Connections must remain accessible - not be blocked by tables or fixtures.
 - Daily Sweeping/washing of outdoor dining area is recommended to control rodent activity.
 - Fire Hydrants shall not be obstructed by tables, chairs or other fixtures.
 - The configuration of any outdoor seating shall not obstruct or diminish the required egress from the structure or any adjacent structures.
- C-12 Any increase in occupancy must be supported by the required number of restroom facilities within the structure in accordance with the USBC / International Plumbing Code.
- C-13 Any increase in occupancy will only be considered for the exterior of the structure and will not modify the approved interior approved occupant load. At no time shall any approved outdoor seating be incorporated inside due to foul weather or other situations.

Health Department:

- C-1 An Alexandria Health Department Permit is required for all regulated facilities.
- C-2 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 plans review of food facilities.
- C-3 Permits must be obtained prior to operation.
- C-4 The facility must comply with the Alexandria City Code, Title 11, Chapter 10, Smoking Prohibitions both indoors and at the outside dining areas.
- C-5 Certified Food Managers must be on duty during all hours of operation.
- C-6 Food must be protected to the point of service.
- 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 Community Relations 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 Community Relations 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" license 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.

SUP#2005-0084
3839 Mt. Vernon Avenue

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