

Docket Item #13
SPECIAL USE PERMIT # 2005-0131

Planning Commission Meeting
February 7, 2006

ISSUE: Consideration of a request to amend a special use permit to increase the seating and add on-premise alcohol service, and for a parking reduction at a restaurant.

APPLICANT: Eric Nelson

LOCATION: 1901 Mt. Vernon Avenue

ZONE: CL/Commercial Low; Mount Vernon Urban Overlay

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, Eric Nelson, requests special use permit approval to amend a special use permit to add seats and on-premise alcohol service, and for a parking reduction, for a future restaurant located at 1901 Mt. Vernon Avenue.

SITE DESCRIPTION

The subject property is one lot of record with 57.5 feet of frontage on Mount Vernon Avenue, 107 feet of frontage on E. Bellefonte Avenue and a total lot area of approximately 6,156 square feet. The site is developed with a single story commercial building of approximately 4,900 square feet. The building is currently vacant, but is proposed to operate as an art gallery with artist studios and restaurant. The property is located at the southern edge of the historic core of the Mt. Vernon Avenue (The historic core is located between E. Uhler and E. Bellefonte Avenues).



Surrounding uses include an office building across Mt. Vernon Avenue to the west, residential homes to the east directly behind the proposed business. To the north is a restaurant, Los Amigos, and to the south across E. Bellefonte Avenue is Kesterson's, a heating and plumbing contractor.

BACKGROUND

The subject property is occupied by a building formerly used as a dry cleaning operation. In October 2005, staff approved Administrative Special Use Permit #2005-0105 for a restaurant in the Mt. Vernon Avenue Urban Overlay Zone, consistent with the conditions required for approval of an Administrative SUP. The art gallery and studios do not require a special use permit. Restaurants in this zone are permitted through the administrative process subject to a number of conditions, including a maximum of 60 seats and on-premise beer and wine only.

The use of the building is proposed to be a combination of artist studios, art gallery and a restaurant. According to the applicant, the gallery is intended to provide exposure to emerging artists. The restaurant will support the gallery by providing an atmosphere that encourages art patrons to linger and view the art. There will be nine private artist studios and one open studio for part-time artists and for training in art techniques (see attached floor plan). The hours of operation are limited to 7:00 a.m. to 10:00 p.m. Sunday through Thursday and 7:00 a.m. to 11:00 p.m. Friday and Saturday. The

closing hour for indoor seating may extend until 12:00 midnight four times a year for special events. The restaurant space may be used for occasional receptions and events related to the artists, gallery and community. Occasional live entertainment is allowed through the Administrative SUP process, and was approved at this location for limited, non-amplified live entertainment.

PROPOSAL

The applicant proposes to increase the number of seats at the restaurant and add alcohol service. The applicant is not able to provide the required number of parking spaces, and requests a parking reduction of five spaces. The specific amendments as proposed by the applicant include the following:

	<u>APPROVED</u>	<u>PROPOSED</u>
Number of seats:	40 inside + 16 outside	88 inside + 16 outside
Alcohol service:	Beer and wine table service	On-premise alcohol

No other changes are proposed. All other aspects of the restaurant conform with the Mt. Vernon Avenue Urban Overlay Zone, as approved in SUP#2005-0105 (see Section III of this report for conditions carried forward from approved SUP).

PARKING

Section 8-200(A)(8) of the Zoning Ordinance requires a restaurant with 104 seats to provide 26 parking spaces; however, section 6-604(B) of the Zoning Ordinance requires no parking for the first 16 outdoor seats, which would require the applicant to provide 22 parking spaces for the 88 indoor seats. Although the applicant can only provide two parking spaces on site, he has secured 15 parking spaces at the Salvation Army parking lot located at 111 E. Bellefonte Avenue (1804 Mt. Vernon Avenue). Section 8-200(C)(3) of the zoning ordinance states that required parking must not be more than 500 feet from the use which it serves. The Salvation Army parking lot is within 500 feet of the subject site. There are 32 non-reserved parking spaces available and an additional four reserved spaces at the Salvation Army lot which are not fully utilized by the facility. The Salvation Army offices close at 3:00 p.m. and does not utilize the parking lot in the evening, which is the anticipated peak time of the restaurant. The applicant has obtained permission to use 15 of these parking spaces during the restaurant's operating hours. The remainder of the subject building will be retail, which under Section 6-604(A) is an allowed change of use that does not trigger additional parking requirements.

With only 17 spaces provided where 22 are required, the applicant is requesting a parking reduction of five spaces. At staff's request, the applicant conducted a parking study to identify the number of available street spaces during the restaurant's typical peak hours. The results of that study are discussed below.

PARKING STUDY

The applicant conducted the study during typical peak evening hours on a Thursday, Friday and Saturday, and during lunch time on a Thursday. The applicant counted the available parking spaces within a two-block radius around the subject property, including the neighborhood streets. The only exception is E. Bellefonte Avenue where the blocks are longer and only one block east and one block west were evaluated. The applicant evaluated the total number of possible parking spaces, the spaces occupied and the spaces available (see attached parking study).

The applicant found that there were an average of 28 spaces within two blocks of the building along Mt. Vernon Avenue during peak evening hours. The most significant source for available parking spaces on Mt. Vernon Avenue was between E. Bellefonte and E. Mason Avenues, likely because the businesses in that block are closed during evening hours. The applicant also found a number of parking spaces available between E. Bellefonte and Howell Avenues. The applicant found fewer available spaces between E. Howell and E. Windsor Avenues, likely because of the Evening Star Restaurant located in this block. The neighborhood streets also showed a number of available spaces, which may indicate that by and large commercial parking is not overflowing on to neighborhood streets in this area.

The applicant's study concludes that there is parking available in the area to the extent that the reduction of five required parking spaces will not have an adverse impact on the neighborhood.

MT. VERNON AVENUE BUSINESS AREA PLAN

Retail Marketing/Arts Promotion Strategy:

The retail market study projected demand for an additional 10 percent retail/restaurant space along the Avenue by 2010. Recommendations in the plan include: targeting new complementary businesses such as specialty food stores, housewares, artwork, etc; encouraging new restaurant opportunities; and undertake a detailed arts promotion effort that includes the creation of artists' studios. The subject property is located in the area identified as the "Historic Core" where retail uses are encouraged. The Plan also encourages any new restaurant to fill a niche currently missing from the community, and identifies restaurants with entertainment/arts themes as an example. The applicant's proposal for artists studios, gallery and restaurant in this location is complementary to the Plan's goals to promote the arts in Del Ray. It offers the additional benefit of enlivening a formerly vacant building that contributed little to the vibrant, eclectic nature of Mt. Vernon Avenue.

Parking Strategy:

During the Mt. Vernon Avenue Business Area planning process, a parking utilization study was conducted to understand the current and potential future parking conditions along the Avenue and to assist in formulating the appropriate parking strategies. Generally speaking, the parking study indicated that the existing parking supply and demand for the spaces is balanced with sufficient surplus spaces to accommodate regular turnover of spaces. The Plan encourages more efficient use

of several underutilized off-street parking lots on the Avenue, including the Salvation Army parking lot where the applicant's off-street parking is proposed. The Plan identifies a number of strategies to address parking which include, but are not limited to, the following: develop a shared parking program to more efficiently share and use underutilized private parking resources; create a parking overlay district that proved parking flexibility; and monitor parking demand and supply over time. Following the adoption of the Plan by City Council in Spring 2005, an implementation group, which the applicant has been participating in, has been meeting regularly to implement Plan elements, including the development of a parking strategy for the Avenue. The applicant's administrative approval required that he participate in the shared parking program once it has been adopted by City Council.

ZONING/MASTER PLAN DESIGNATION

The subject property is located in the CL/Commercial Low zone and the Retail Focus Area of the Mount Vernon Avenue Urban Overlay zone. Section 6-603(D)(1) of the zoning ordinance allows a restaurant, up to a maximum of 60 seats with only beer and wine service, with an administrative use permit. In this case, the applicant is requesting a greater number of seats and on-premise alcohol and is required to apply for 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.

II. STAFF ANALYSIS

Staff supports the request for additional seats and on-premise alcohol at the art gallery/restaurant. The use will enhance the existing mix of uses in the area and will create a more vibrant and pedestrian-friendly streetscape along Mount Vernon Avenue. The gallery provides a retail use at the street, with artist studios and additional dining options, which are all goals of the Mt. Vernon Avenue Business Area Plan and are compatible with the existing mix of commercial uses in this section of Mt. Vernon Avenue. The number of seats and on-premise alcohol is consistent with other approved restaurants in the area such as Fireflies at 1501 Mt. Vernon which is approved for up to 100 seats and on-premise alcohol. The on-premise alcohol will be offered as a part of a larger dining and gallery experience.

Regarding the parking reduction request, staff is concerned generally about parking reduction requests along Mt. Vernon Avenue as it recognizes that there is limited on-street parking that is shared by many users and that a balance of supply and demand for this parking must be maintained to ensure that commercial parking does not spill over onto adjacent residential streets. With this concern in mind and to be able to consider the potential impacts of the applicant's parking reduction, staff requested that the applicant conduct a parking study to assess existing parking impacts in the

area. The study found an average of 28 parking spaces within two blocks of the proposed restaurant along Mt. Vernon Avenue during peak evening hours, and 22 during a lunch hour. These spaces, in addition to the 15 off-street spaces proposed at the Salvation Army, and the two on-site spaces, are more than sufficient to accommodate the demand generated for the proposed 104 total seats at the restaurant. In addition, the parking study conducted for the Mt. Vernon Avenue Business Area Plan found that the neighborhood currently has an overall supply of parking spaces that exceeds the measured demand. While the historic core was found to have a higher concentration of parking demand, the study also found that there are several off-street parking lots that are underutilized, including the Salvation Army parking lot where the applicant is proposing to provide parking.

Therefore, staff does not object to the parking reduction request. If the arrangement for 15 spaces at the Salvation Army changes in any way, the applicant is required to provide the City with evidence that he has secured the required number of off-street parking spaces at another location or he must apply for a parking reduction. As a condition of the administrative approval, the applicant is required to install signs inside the building indicating the location of off-street parking in the area, and inform customers about the parking (Condition #7). In addition, Condition #6 of the administrative approval requires that the applicant participate in the shared parking program once it has been adopted by City Council. Staff also recommends a one year review to ensure problems do not arise with this arrangement.

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. **CONDITION AMENDED BY STAFF:** The ~~administrative~~ special use permit shall be granted to the applicant only or to any business or entity in which the applicant has a controlling interest. Any change in the ownership of the use that is the subject of the ~~administrative~~ permit may be transferred administratively with the approval of the Director pursuant to the requirements of Section 11-503(F) of this ordinance. (P&Z) (SUP#2005-0105)
2. 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#2005-0105)

3. 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 containers which does not allow invasion by animals. No trash and debris shall be allowed to accumulate on site outside of those containers. (T&ES) (SUP#2005-0105)
4. 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. This is to be completed prior to opening for business. (Police) (SUP#2005-0105)
5. The applicant shall provide information on alternative forms of transportation to access Mt. Vernon Avenue including but not limited to printed and electronic business promotional material, posting on the business website, and other similar methods. The applicant shall encourage its employees and customers 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) (SUP#2005-0105)
6. At such time that a shared parking program has been adopted by the City Council, the applicant shall participate in the program. In addition, the applicant shall require its employees who drive to work to use off-street parking. (P&Z) (SUP#2005-0105)
7. The applicant shall install signs inside the building indicating the location of off-street parking in the area and shall inform customers about the parking.(P&Z) (SUP#2005-0105)
8. The hours of operation shall be limited to 7:00 a.m to 10:00 p.m. Sunday through Thursday and 7:00 a.m. to 11:00 p.m. Friday and Saturday. The closing hour for indoor seating may extend until 12:00 midnight four times a year for special events. (P&Z) (SUP#2005-0105)
9. Meals ordered before the closing hour may be served, but no new patrons may be admitted after the closing hours, and all patrons must leave by one hour after the closing hour. (P&Z) (SUP#2005-0105)
10. Limited, non-amplified live entertainment may be offered at 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#2005-0105)

11. **CONDITION AMENDED BY STAFF:** The number of seats shall be limited to 88 ~~40~~ seats with no more than 16 outdoor seats. (P&Z) (~~SUP#2005-0105~~)
12. The applicant shall post the hours of operation at the entrance of the restaurant. (P&Z) (SUP#2005-0105)
13. No food, beverages, or other material shall be stored outside. (P&Z) (SUP#2005-0105)
14. Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers. (T&ES) (SUP#2005-0105)
15. 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. (T&ES) (SUP#2005-0105)
16. The applicant shall conduct employee training sessions on a 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) (SUP#2005-0105)
17. Outdoor seating shall not encroach onto the public right-of-way unless authorized by an encroachment ordinance. (P&Z) (SUP#2005-0105)
18. The outdoor dining shall be an accessory use to an approved restaurant. (P&Z) (SUP#2005-0105)
19. **CONDITION AMENDED BY STAFF:** On-premise beer, wine and alcohol service is permitted. Beer and wine table service may be provided. No off-premise alcohol sales are permitted. (~~P&Z~~) (~~SUP#2005-0105~~)
20. All loudspeakers shall be prohibited from the exterior of the building, and no amplified sounds shall be audible at the property line. (P&Z) (T&ES) (SUP#2005-0105)
21. The applicant shall require its employees who drive to work to use off-street parking. (P&Z) (SUP#2005-0105)

22. The applicant shall provide screening for the dumpster, and maintain the screening in good condition, to the satisfaction of the Director of Planning and Zoning. Trash pick up shall not occur before 7:00 a.m. (P&Z) (SUP#2005-0105)
23. The applicant shall implement facade improvements to the building as shown on plans submitted by applicant's architect on September 13, 2005 and in compliance with the Mount Vernon Avenue Business Area Plan Building Form Design Guidelines and to the satisfaction of the Director of Planning and Zoning. The improvements shall be implemented prior to opening. (P&Z) (SUP#2005-0105)
24. Business signs shall comply with the Mount Vernon Avenue Business Area Plan Building Form Design Guidelines. (P&Z)(SUP#2005-0105)
25. Any lighting in the parking area shall be shielded to prevent glare on adjacent residential properties. (P&Z) (SUP#2005-0105)
26. Applicant shall provide the City \$1000.00 for one Model SD-42 Bethesda Series litter receptacle for installation on the adjacent public right-of-way (monetary contribution to be submitted to the Department of T&ES, Engineering Division, Room 4130, 301 King Street). Contact T&ES Solid Waste Division (703/751-5130) regarding information on ordering and installation. (T&ES) (SUP#2005-0105)
27. **CONDITION AMENDED BY STAFF:** The applicant shall provide ~~the required~~ at least 15 off-street parking spaces through an agreement with the Salvation Army located at 111 E. Bellefonte Avenue. If this agreement changes in any manner, the applicant will provide the City with evidence that he has secured the required number of off-street parking spaces at another location or he must apply for a parking reduction. (P&Z) (T&ES) (SUP#2005-0105)
28. 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)

29. **CONDITION ADDED BY STAFF:** Until such time that VADEQ closes the case, all future correspondence to and from VADEQ regarding the site's participation in the VA State Voluntary Remediation Program, including site characterization, proposed cleanup etc., must be copied to the City of Alexandria-T&ES, Division of Environmental Quality. (T&ES)

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:

- F-1 Staff is generally concerned with parking reductions for businesses along the Mt. Vernon Avenue corridor, however, given the location of this use and the provision of parking on a nearby site, staff does not object to the proposed parking reduction. Because the applicant currently utilizes off-site parking on another site without written assurances the spaces will always be available, Staff is recommending that in the event that the parking is no longer available, the applicant should immediately seek review of the SUP for analysis by Staff as to alternative methods to provide sufficient off-street parking for the restaurant.
- F-2 The parking analysis prepared by the applicant was conducted within two to three days before Christmas. Staff is not absolutely certain that the counts provide an accurate picture of the what is currently available in the parking inventory.
- F-3 Due to the historic uses at the site and the potential for contamination, this site is participant in the VA State Voluntary Remediation Program administered by Virginia Department of Environmental Quality (VADEQ).
- R-1 In the event that the parking is no longer available at the Salvation Army site, the applicant shall immediately be required to file an amendment/review of the special use permit for Staff analysis and action by the City. *(Condition #27)*
- R-2 Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers.
- R-3 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-4 Loudspeakers shall be prohibited from the exterior of the building, and no amplified sounds shall be audible at the property line.

- R-5 Until such time that VADEQ closes the case, all future correspondence to and from VADEQ regarding the site's participation in the VA State Voluntary Remediation Program, including site characterization, proposed cleanup etc., must be copied to the City of Alexandria-T&ES, Division of Environmental Quality.

Code Enforcement:

- 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 Construction permits are required for this project. Plans shall accompany the permit application that fully detail the construction as well as layouts and schematics of the mechanical, electrical, and plumbing systems.
- C-6 A Certificate of Use of Occupancy is required prior to opening (USBC 119.1).
- 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 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-9 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-10 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-11 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-12 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.
- C-5 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 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 The applicant is seeking an “ABC On” license only. A “calls for service” check was made of the address. It yielded negative results therefore, the Police Department has no objection.

SUP# 2005-0131
1901 Mt. Vernon Ave

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