

Docket Item #12
SPECIAL USE PERMIT #2006-0002

Planning Commission Meeting
March 9, 2006

ISSUE: Consideration of a request for a special use permit to expand an existing restaurant.

APPLICANT: Mejia Brothers, Inc.
by Mariela Garrido

LOCATION: 2615-2617 Mount Vernon Avenue

ZONE: CL/Commercial Low

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, German Mejia, requests special use permit approval for the expansion of a restaurant located at 2615-2617 Mt. Vernon Avenue.

SITE DESCRIPTION

The subject property is one lot of record with 150 feet of frontage on Mt. 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 currently occupied by four commercial tenants. A parking lot abuts the south side of the building. The subject restaurant, Los Tios Grill, occupies the southern most tenant space and proposes to expand into the adjacent commercial space currently occupied by Botanica San Elias.



The surrounding land uses include commercial and residential to the north, commercial to the south, residential immediately to the east and the Mount Vernon Elementary School and Recreation Center to the west of the property. A parking lot abuts the south side of the building. The parking lot serves the building at 2609 Mt. Vernon Avenue.

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. Most recently, on August 3, 2004, staff approved SUP#2004-0060 to the applicant as the new owner of the restaurant. On November 13, 2004, City Council approved SUP#2004-0088 for a restaurant expansion. Since the approval of SUP#2004-0088, the applicant has had no complaints or special use permit violations. Staff is not aware of any issues or complaints at the restaurant.

PROPOSAL

The applicant proposes to expand the restaurant into the adjacent commercial space, to increase the number of seats. After renovations are completed, the applicant proposes to provide 128 table seats, 10 bar seats, and 38 seats outside for a total of 176 seats. 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. The applicant also proposes exterior renovations to the restaurant including lighting improvements, new fencing, an awning, and removal of the box sign currently at 2617 Mt. Vernon Avenue. No other changes are being proposed at this time.

<i>Los Tios Restaurant Seating</i>		
	Current Approved Seating	Proposed Seating
Bar	0	10
Table	48	128
Outdoor	12	38
Total	60	176

Restaurant Hours: 7am-11pm Sunday-Thursday
 7am-12am Friday-Saturday

Outdoor Dining Hours: 8am-10pm Daily

Trash/Litter: Food, papers, and empty bottles. Nine bags of trash are collected each day and trash will be collected twice per week. Trash containers will be checked daily.

Alcohol: The applicant proposes to continue on-premises beer, wine, and mixed beverages.

Live Entertainment: The applicant proposes to maintain the condition to have live entertainment at the restaurant.

PARKING

Pursuant to Section 8-200 of the zoning ordinance, the restaurant is required to provide one parking space for every four seats. In addition, Section 6-604(B) states that outdoor dining requires no parking for the first 16 seats, ultimately requiring the restaurant to provide 40 off-street parking spaces. To comply with the parking requirement, the applicant secured a parking arrangement with the SunTrust Bank, less than 500 feet to the south at 2809 Mount Vernon Avenue, for up to 40 spaces at all times. The applicant has 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 available along Mt. Vernon Avenue in front of the restaurant.

PARKING SURVEY

To assess the existing parking impacts, the applicant conducted a survey of his customers detailing how they arrived and if they used on street parking or the SunTrust Bank parking lot. The applicant surveyed each group of customers throughout a weekend and during one weekday lunch, totaling 175

groups and 597 individuals. The survey indicated that 27% of the groups surveyed used parking at SunTrust Bank, 36% of the groups used on-street parking, and 37% of customers walked to Los Tios Restaurant. The survey concluded that 64% of the customers utilized parking at SunTrust Bank or walked from the adjacent neighborhoods.

DEL RAY LAND USE COMMITTEE MEETING

On February 16, 2006, staff attended the Del Ray Land Use Committee meeting at the Mount Vernon Recreation Center. The committee supported the proposal with conditions, and added its support for off-street parking to be utilized at SunTrust Bank.

MT. VERNON AVENUE BUSINESS AREA PLAN

Retail Marketing/Arts Promotion Strategy:

The retail market study done in conjunction with the Mt. Vernon Avenue Business Area Plan, projected demand for an additional 10 percent retail/restaurant space along the Avenue by 2010. The applicant's proposal for a restaurant expansion in this location is consistent with the plan's goals to promote business in Del Ray. The expanded restaurant will create more activity along this section of Mt. Vernon Avenue, thus contributing to the vibrancy of Del Ray.

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 along Mount Vernon Avenue is sufficient for the existing demand for parking spaces. The Plan encourages more efficient use of several underutilized off-street parking lots on the Avenue, including the SunTrust Bank parking lot where the applicant's off-street parking is proposed.

ZONING/MASTER PLAN DESIGNATION

The subject property is located in the Mount Vernon Avenue Urban Overlay zone. Section 4-103 of the Zoning Ordinance allows the proposed restaurant expansion in the overlay 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.

II. STAFF ANALYSIS

Staff supports the proposal for additional seats, including additional outdoor seating. 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 plan, it is an area with some commercial activity that should be encouraged to improve by creating more viable businesses.

Staff is not aware of any problems with the current hours of operation of the restaurant. Special Use Permit #2004-0088 permits the restaurant to operate between the hours of 7:00am and 11:00pm Sunday- Thursday and 7:00am- 12:00am Friday and Saturday. The zoning ordinance states within the Mt. Vernon Urban Overlay Zone [Section 6-607(4)(A)] for administrative uses, the hours of operation shall be limited to between 7:00am- 10:00pm Sunday- Thursday and 7:00am- 11:00pm Friday and Saturday. The current hours of operation of Los Tios Restaurant are consistent with other restaurants on the Avenue with alcohol sales, including Fireflies, Evening Star, and Caboose Cafe. The Del Ray Civic Association has recommended that the hours of operation for Sunday-Thursday be from 7:00am- 10:00pm, which is consistent with the administrative use permit hours of operation. Staff does not object to maintaining the existing hours of operation. There have been no reported problems with these hours.

Staff recommends maintaining conditions related to noise and other impacts to reduce the potential of conflicts. Staff also recommends a one year review so that if any issues arise, they may be addressed at that time.

Although the applicant has secured an arrangement for all required parking, 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.

In regard to exterior renovations to the business, staff recommends low-metal fencing with planters for the outdoor dining area. In addition, staff recommends removal of the existing box sign and installation of an awning and signage in accordance with the guidance provided in the Mt. Venron Avenue Building Design Guidelines. The applicant must submit and complete these exterior renovations to the restaurant, to the approval of the Director of Planning and Zoning.

Staff has contacted both the Del Ray Civic Association as well as the Potomac West Business Association regarding any comments or concerns that the organizations feel need to be addressed. The Del Ray Civic Association approved the restaurant expansion, subject to conditions that address

the number of seats, hours of operation, landscaping, and signage directing customers to the designated parking area.

With these conditions, staff recommends approval of the special use permit.

1. 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 ~~48 seats~~ 128 table seats indoors, 10 bar seats, and ~~12 seats~~ 38 seats outdoors, as requested by the applicant. (P&Z) (SUP #1447)
3. The hours of operation shall be restricted to between 7:00 a.m. and 11:00 p.m., Sunday through Thursday, and between 7:00 a.m. and 12:00 midnight on Friday and Saturday. The hours of operation for the outdoor dining area shall be limited to between 8:00 a.m. to 10:00 p.m., daily. The outdoor dining area shall be cleared of all diners by 10:00 p.m. and the area shall be cleaned and washed by 10:30 p.m. Deliveries made to the business from the rear alley shall occur only between 8:00 a.m. and 6:00 p.m. daily. (City Council) (SUP#2004-0088)
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. (SUP#2004-0088)(P&Z)
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 no amplified sound shall be audible at the property line.~~ No outdoor speakers shall be permitted. (T&ES)(SUP#2004-0088)
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. Condition deleted by staff. (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. **CONDITION AMENDED BY STAFF:** ~~Any All~~ improvements to the exterior of the building shall comply with the Mount Vernon Avenue Design Guidelines, including but not limited to signage, awnings, fencing of outdoor dining, and landscaping shall be to the satisfaction of the Director of Planning and Zoning. (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. 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. (P&Z)(SUP#2004-0088)
18. On site alcohol service is permitted; no off-premise alcohol sales are permitted. (P&Z)(SUP#2004-0088)
19. **CONDITION AMENDED BY STAFF:** 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 #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 Health. (T&ES) (SUP#2003-0003)

21. **CONDITION DELETED BY STAFF:** ~~Business signs shall be consistent with the Mount Vernon Avenue Design Guidelines, as determined by the Director of Planning and Zoning. (P&Z)(SUP#2004-0088) (See Condition # 14)~~
22. The applicant shall post signs at the front of the building directing patrons to the location of off-street parking. (P&Z)(SUP#2004-0088)
23. The Director of Planning and Zoning shall review the special use permit 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) (SUP#2004-0088)
24. 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. (P&Z)(SUP#2004-0088)
25. Condition deleted. (P&Z)(SUP#2004-0088)
26. The applicant shall maintain the dumpster screening in good condition, to the satisfaction of the Director of Planning and Zoning. (P&Z)(SUP#2004-0088)
27. No dumpster service is permitted before 8:00 a.m. (PC) (SUP#2003-0003)
28. 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)(SUP#2004-0088)
29. **CONDITION AMENDED 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.~~ The applicant shall provide at least 40 off-street parking spaces through an agreement with the SunTrust Bank located at 2809 Mt. Vernon 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. (T&ES) (P&Z)(SUP#2004-0088)

30. Advertising and promotional material for the restaurant shall include information about parking and public transit options. (P&Z)(SUP#2004-0088)
31. **CONDITION AMENDED 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 unless authorized by an encroachment ordinance. (P&Z)(SUP#2004-0088)
32. The outdoor dining area shall be cleared and washed at the close of each business day that it is in use. (P&Z)(SUP#2004-0088)
33. Any enclosure of the outdoor seating area shall be reviewed and approved by the Director of Planning and Zoning prior to installation. (P&Z) (SUP#2004-0088)
34. Approval of the requested number of seats is contingent upon the applicant's compliance with all Code requirements. (P&Z)(SUP#2004-0088)
35. **CONDITION ADDED BY STAFF:** The applicant shall remove the existing box sign from the exterior of the subject building. (P&Z)

STAFF: Eileen Fogarty, Director, Department of Planning and Zoning;
Richard Josephson, Deputy Director;
James Hunt, 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:

- 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 The applicant shall provide at least 40 off-street parking spaces through an agreement with the SunTrust Bank located at 2809 Mt. Vernon 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.
- R-2 Identify the location of the employee parking and provide a study to support the availability of 30 off site parking spaces.
- R-7 Provide a more detail sketch of the site with street frontages clearly shown and location of the outside dining area shown.
- F-1 There is an existing bus stop at the corner of Mt. Vernon Ave and Randolph St. which appears to be at the property frontage. This bus stop shall remain intact and will not be relocated at any time in the future.

Code Enforcement:

- F-1 The proposed operation requires the removal of a partition wall between separate use groups and a change of use for the new tenant space requested by the applicant.
- C-1 The proposed use is a change in use group classification; a new Certificate of Occupancy is required (USBC 119.1).
- 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 The addition of seating results in a change of use group classification. A new Certificate of Occupancy is required prior to re-opening (USBC 119.1).
- C-4 A revised fire prevention code permit is required for the proposed intensification of operation.
- C-5 This structure contains mixed use groups and is subject to the mixed use and occupancy requirements of USBC 302.3
- C-6 Required exits, parking, and accessibility within the building for persons with disabilities must comply with USBC Chapter 11. Handicapped accessible bathrooms shall also be provided.
- C-7 New construction must comply with the current edition of the Uniform Statewide Building Code (USBC).
- C-8 Alterations to the existing structure must comply with the current edition of the Uniform Statewide Building Code (USBC).
- C-9 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.

Health Department:

- C-1 An Alexandria Health Department Permit is required for all regulated facilities.
- F-1 This facility is currently operating as Los Tios Grill under an Alexandria health permit, issued to German Mejio.
- C-2 This facility and all modifications must meet current Alexandria City Code requirements for food establishments.
- C-3 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-4 Permits and/or approval must be obtained prior to operation.
- C-5 The facility must comply with the Alexandria City Code, Title 11, Chapter 10, Smoking Prohibitions.
- C-6 Certified Food Managers must be on duty during all hours of operation.
- C-7 Restrooms, including those in common areas, serving the restaurant, are to meet Alexandria City Code, Title 11, Chapter 2 requirements.

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.
- F-1 The applicant is seeking an “ABC On” license only. The Police Department has no objections.
- F-2 After reviewing the calls for police service for the above addresses, the Police Department has no objections to the expansion.

SUP#2006-0002
2615-2617 Mount Vernon Avenue

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