

Docket Item #13  
SPECIAL USE PERMIT #2008-0054

Planning Commission Meeting  
September 4, 2008

**ISSUE:** Consideration of a request to amend a special use permit to add seats to an existing carry-out restaurant, and to change ownership of the business.

**APPLICANT:** Tony Flores

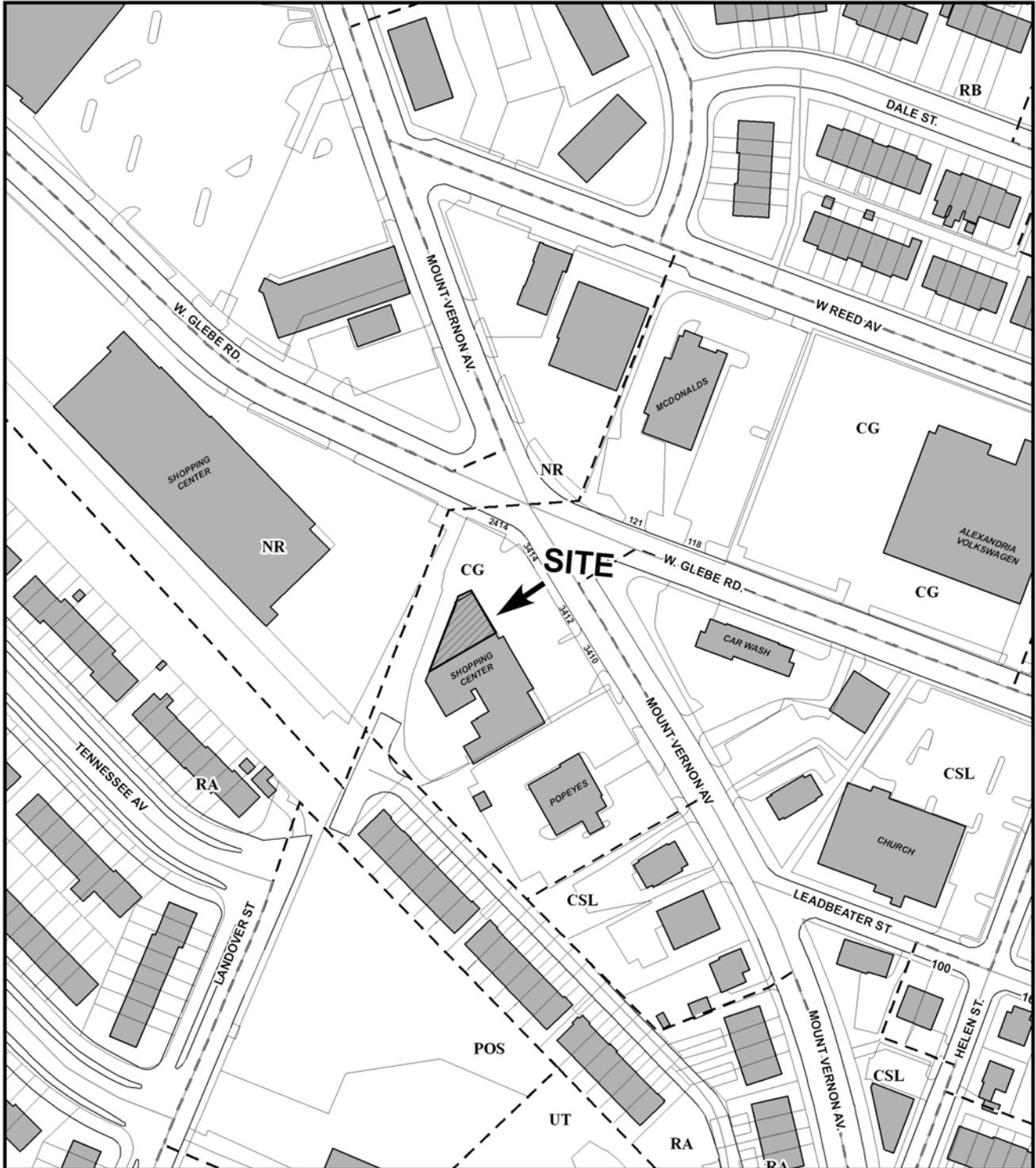
**STAFF:** Nathan Randall  
[nathan.randall@alexandriava.gov](mailto:nathan.randall@alexandriava.gov)

**LOCATION:** 3414-3414A Mt. Vernon Avenue

**ZONE:** CG/Commercial General

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**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.



**SUP #2008-0054**

**09/04/08**



## I. DISCUSSION

### REQUEST

The applicant, Tony Flores, requests a special use permit amendment to add seats to an existing carry-out restaurant and to change the ownership of the business located at 3414 Mt. Vernon Avenue.

### SITE DESCRIPTION

The subject property is one lot of record with 167 feet of frontage on Mt. Vernon Ave, 73 feet of frontage on W. Glebe Road, approximately 79 feet of frontage on Sanborn Place at the rear of the property, and a total lot area of 38,290 square feet. Access to the property is primarily from Mt. Vernon Ave. The site is developed with a small shopping center with five tenant spaces totaling 9,384 square feet. Current tenants are: a Laundromat, a rotisserie chicken restaurant, a 7-Eleven convenience store, a grocery store, and the carry-out restaurant.



The surrounding area is occupied by a mix of primarily commercial/retail uses and some residential uses. Immediately to the north, across the intersection of Mt. Vernon Avenue and W. Glebe Rd, is a now-closed check-cashing business, a payday loan business, and a McDonald's restaurant. To the southeast is a Popeye's restaurant and to the southwest are residential townhouses. To the east is a car wash facility and to the west is a grocery store.

### BACKGROUND

On October 22, 1991, City Council granted Special Use Permit #2529 to Bic Patel to operate a carry-out restaurant known as "Hogs on the Hill" at 3414A Mt. Vernon Ave. On June 17, 2000, City Council granted SUP #2000-0048 to Ming Feng Lu for "Top Wok Restaurant." On June 10, 2003, staff administratively approved SUP#2003-0047 to change ownership of the restaurant to Juan Ventura for "Chirilagua Deli." On December 16, 2003, City Council approved SUP# 2003-0097 to extend the hours of operation. On May 13, 2005, staff administratively approved SUP#2005-0023 to change ownership of the restaurant to Juan Flores.

On July 24, 2008 staff visited the subject property to determine if the business was in compliance with the conditions of its special use permit. Staff found no violations of the special use permit.

PROPOSAL

The applicant proposes to add 12 seats to an existing carry-out restaurant currently known as Taco Baja Express. The additional seats are proposed to be located inside the grocery store, known as Tanya's Mercado Latino, next door to the restaurant. The applicant also proposes to change the ownership of the business.

Hours: Sunday – Thursday, 9:00am – 9:00pm  
Friday – Saturday, 9:00am – 10:00pm

Number of seats: 12

Type of Service: Carry-out and self-seating

Noise: Minimal, no significant increase over existing.

Odors: No significant increase compared to existing restaurant.

Trash/Litter: Trash will be picked up twice per week.

PARKING

According to Section 8-200 (A)(8) of the Zoning Ordinance, a restaurant requires one (1) parking space for every four (4) seats. Because this parking requirement is lower than that required for the existing grocery store in which the seats are to be located, there is no additional parking requirement for this use. There are a total of 48 parking spaces on the property and 48 parking spaces are required for the retail uses in the entire shopping center. Therefore the applicant complies with the parking requirement.

ZONING/MASTER PLAN DESIGNATION

The subject property is located in the CG zone. Section 4-403(Y) of the Zoning Ordinance allows a restaurant in the CG 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 low-scale commercial services.

**II. STAFF ANALYSIS**

Staff supports adding seating at this carry-out restaurant on Mt. Vernon Avenue. The number of new seats proposed (12) is rather small and will offer customers of this small business greater flexibility and convenience. The additional seating should not create significant additional noise, odor, or trash impacts on the surrounding neighborhood.

Although the applicant has proposed later opening hours and earlier closing hours of operation in his request, staff has conditioned the same hours of operation as previously approved in order to afford the applicant greater flexibility.

Subject to the conditions set forth in Section III of this report, staff recommends approval of this special use permit request.

### 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 corporation in which the applicant has a controlling interest. (P&Z)(SUP #2529)
2. **CONDITION AMENDED BY STAFF:** The maximum number of restaurant seats shall be 12 and shall be located in the grocery store as shown on the interior floor plan submitted by the applicant. No seating for patrons shall be provided ~~inside or~~ outside the premises. (P&Z)(SUP#2529)
3. The hours during which the restaurant is open to the public shall be restricted to between 6:00 A.M. and 10:00 P.M. daily. (P&Z) (SUP#2005-0023)
4. No food, beverages, or other material shall be stored outside. (P&Z) (SUP #2529)
5. **CONDITION DELETED BY STAFF (See Condition #6):** ~~Trash and garbage shall be stored inside or in a dumpster. (P&Z) (SUP #2529)~~
6. **CONDITION AMENDED BY STAFF:** 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 or dumpster which does not allow invasion by animals. No trash and debris shall be allowed to accumulate on site outside of those containers. (P&Z) (SUP#2000-0048)
7. Litter on the site and adjacent 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 and unsanitary accumulation, on each day the business is open to the public. (P&Z) (SUP#2000-0048)
8. No delivery service shall be operated from this location. (P&Z) (SUP#2003-0097)
9. **CONDITION AMENDED BY STAFF:** No on-premises alcohol sales service shall be permitted ~~provided~~ at either the grocery store or the restaurant. No off-

- premises alcohol sales shall be permitted at the restaurant. (P&Z) (~~SUP#2003-0097~~)
10. **CONDITION AMENDED BY STAFF:** The applicant shall work with the property owner, the other tenants in the shopping center and the City to maintain the lot in good condition. ~~including the Existing landscaping to be installed along the Mount Vernon Avenue frontage of the property.~~ shall be well maintained and be free of weeds, debris, and litter at all times. Dead or missing plants shall be replaced as needed. (P&Z) (~~SUP#2000-0048~~)
  11. The applicant shall post the hours of operation at the entrance to the restaurant. (P&Z) (SUP#2000-0048)
  12. **CONDITION AMENDED BY STAFF:** The applicant shall install at least one trash container within the restaurant and one trash container within the grocery store for customers' use. (P&Z) (~~SUP#2000-0048~~)
  13. The applicant shall contact the Crime Prevention Unit of the Alexandria Police Department for a security survey and a robbery awareness program for all employees. (Police) (SUP#2003-0097)
  14. **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. (P&Z)(T&ES) (~~SUP#2000-0048~~)
  15. The applicant shall control cooking odors, smoke and any other air pollution from operation at the site to prevent them from leaving the property or becoming a nuisance to neighboring properties, as determined by the Department of Transportation and Environmental Services. (P&Z) (SUP#2003-0097)
  16. Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers. (T&ES) (SUP#2000-0048)
  17. Condition deleted. (P&Z) (SUP#2003-0097)
  18. 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, (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) (SUP#2005-0023)
  19. **CONDITION AMENDED BY STAFF:** Within 60 days of approval, the applicant shall either replace the messaging on the existing "Chirilagua Deli" sign located on the northern wall (end) of the carry-out restaurant or remove the name

- Chirilagua Deli or remove said sign entirely. Any new messaging on this sign shall advertise the existing restaurant only. ~~obtain permits for all exterior signs within 30 days of City Council approval.~~ All signs shall conform with the Mount Vernon Design Guidelines. (P&Z)(Parks) (SUP#2003-0097)
20. The applicant shall require its employees to park in the parking lot behind the building. (P&Z) (SUP#2003-0097)
  21. Meals ordered before the closing hour may be served, but no new patrons may be admitted after the closing hour, and all patrons must leave by one hour after the closing hour. (P&Z) (SUP#2003-0097)
  22. The applicant shall conduct employee training sessions on an ongoing basis, including as part of any employee orientation, to discuss all special use permit provisions and requirements. (P&Z) (SUP#2003-0097)
  23. **CONDITION ADDED BY STAFF:** No live entertainment shall be provided at the restaurant. (P&Z)
  24. **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) (T&ES)
  25. **CONDITION ADDED BY STAFF:** Deliveries, loading, and unloading activities shall not occur between the hours of 11:00pm and 7:00am. (T&ES)
  26. **CONDITION ADDED BY STAFF:** The applicant shall provide storage space for solid waste and recyclable materials containers as outlined in the City's "Solid Waste and Recyclable Materials Storage Space Guidelines", or to the satisfaction of the Director of Transportation & Environmental Services. The City's storage space guidelines and required Recycling Implementation Plan forms are available at: [www.alexandriava.gov](http://www.alexandriava.gov) or contact the City's Solid Waste Division at 703-519-3486 ext.132. (T&ES)
  27. **CONDITION ADDED BY STAFF:** 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 within 60-days of approval). Contact T&ES Solid Waste Division (703/751-5130) regarding information on ordering and installation. (T&ES)
  28. **CONDITION ADDED BY STAFF:** Property owner shall control weeds along public sidewalks, curb lines and within tree wells which are within 12 feet of the owners front property line. (Parks)

STAFF: Richard Josephson, Deputy Director, Department of Planning and Zoning;  
Nathan Randall, Urban Planner.

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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 All 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 Deliveries, loading, and unloading activities shall not occur between the hours of 11:00pm and 7:00am. (T&ES)
- R-5 The applicant shall provide storage space for solid waste and recyclable materials containers as outlined in the City's "*Solid Waste and Recyclable Materials Storage Space Guidelines*", or to the satisfaction of the Director of Transportation & Environmental Services. The City's storage space guidelines and required Recycling Implementation Plan forms are available at: [www.alexandriava.gov](http://www.alexandriava.gov) or contact the City's Solid Waste Division at 703-519-3486 ext.132. (T&ES)
- R-6 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. (T&ES)
- R-7 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 within 60-days of approval). Contact T&ES Solid Waste Division (703/751-5130) regarding information on ordering and installation. (T&ES)
- R-8 The applicant shall require its employees who drive to use off-street parking and/or provide employees who use mass transit with subsidized bus and rail fare media. The applicant shall also post DASH and Metrobus schedules on-site for employees. (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.
- C-2 The applicant shall comply with the City of Alexandria's Solid Waste Control, Title 5, Chapter 1, which sets forth the requirements for the recycling of materials (Sec. 5-1-99).

Code Enforcement:

- F-1 The Department of Planning and Zoning has confirmed that the applicant does not propose an addition to the existing structure.
- C-1 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-2 Required exits, parking, and accessibility for persons with disabilities must be provided to the building.
- C-3 If 26 to 50 total parking spaces are provided for the restaurant, then a total of 2 accessible parking spaces will be required.
- C-4 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-5 Sufficient toilet rooms must be provided to accommodate the total occupancy load for restaurant staff and the combined indoor and outdoor patron seating capacity (USBC 2902.1).
- C-6 This structure contains mixed use groups and is subject to the mixed use and occupancy requirements of USBC 508.
- C-7 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-8 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.

Health Department:

- C-1 These food establishments are currently operating under Alexandria Health Department permits for Taco Baja Express - 3414 Mount Vernon Avenue (1 permit) and Tanya's Mercado Latino – 3414 Mount Vernon Avenue (2 permits – 1 for a grocery store and 1 for a meat/poultry market).
- C-2 Five sets of plans must be submitted to and approved by the Alexandria Health 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 establishments. Please call Environmental Health Specialist Senior Joe Fiander at (703) 838-4400 ext. 255 if you have questions.
- C-3 Restrooms, including those in common areas, serving the restaurant, must meet Alexandria City Code, Title 11, Chapter 2 requirements.
- C-4 Smoking is prohibited in indoor service lines and cashier lines. (Code of Virginia, § 15.2-2801 B.) This establishment must comply with the Alexandria City Code, Title 11, Chapter 10, Smoking Prohibitions.
- C-5 Any change in the equipment used in these food establishments must be approved in advance by the Alexandria Health Department.
- C-6 Any significant change in the menu or list of foods to be handled or sold at these establishments must be approved in advance by the Alexandria Health Department.
- C-7 A “person in charge” must be present and on duty any time any of these food establishments are in operation. This person must be a Certified Food Manager (CFM).

Parks and Recreation:

- R-1 Existing landscaping on property shall be well maintained and be free of weeds, debris, and litter at all times. Replace dead or missing plants as needed.
- R-2 Property owner shall control weeds along public sidewalks, curb lines and within tree wells which are within 12 feet of the owners front property line. (City Ord. No. 2698, 6/12/82, Sec. 2; Ord. No. 2878, 11/12/83, Sec. 1)

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.
- F-1 The applicant indicated “no” to question #13 on the application inquiring reference the use including alcoholic beverages. Condition #9 from SUP #2005-0023 indicates “no alcoholic beverages shall be served.” The Police Department concurs.
- F-2 The Police Department has no objections to the applicant adding five tables for indoor dining.

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