



DOCKET ITEM #5

***Special Use Permit #2013-0069  
251 West Glebe Road – El Cuscatleco Restaurant  
(Parcel Address: 221 West Glebe Road)***

Application	General Data	
Consideration of a Special Use Permit amendment to add live entertainment at an existing restaurant.	<b>Planning Commission Hearing:</b>	December 3, 2013
	<b>City Council Hearing:</b>	December 14, 2013
<b>Address:</b> 251 West Glebe Road (Parcel Address: 221 West Glebe Road)	<b>Zone:</b>	CDD#12 / Coordinated Development District #12
<b>Applicant:</b> Fossil, Inc. by Nicholas Gehrig, attorney	<b>Small Area Plan:</b>	Potomac West / Arlandria Neighborhood Plan

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

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

**PLANNING COMMISSION ACTION, DECEMBER 3, 2013:** On a motion by Vice Chair Dunn, seconded by Commissioner Macek, the Planning Commission recommended approval of the request and subject to compliance with all applicable codes, ordinances and staff recommendations. The motion carried on a vote of 6 to 0, with Commissioner Hyra absent.

Reason: The Planning Commission agreed with the staff analysis.

Speakers:

No speakers were present for this docket item.

**PLANNING COMMISSION ACTION, NOVEMBER 7, 2013:** Without objection, the Planning Commission deferred the request.



**SUP #2013-0069**  
**251 W. Glebe Rd**

**12/3/2013 N**



## I. DISCUSSION

The applicant, Fossil Inc. by Nicholas Gehrig, attorney, requests approval of a Special Use Permit amendment to add live entertainment at an existing restaurant at 251 West Glebe Road.

### SITE DESCRIPTION

The subject site is a tenant space in a one-story commercial building originally used as a grocery store and now divided into three spaces. The building and surrounding property are commonly known as “The Safeway Site.” The existing restaurant and the two other tenants in the building, Dollar Plus and Sherwin-Williams Paints, share the surface parking lot located to the east side of the building.



The building is located on an irregularly-shaped lot with 438 feet of frontage on West Glebe Road, 63 feet of frontage on Mount Vernon Avenue, and a total lot area of 103,000 square feet (2.37 acres). The property can be accessed from either West Glebe Road or Mount Vernon Avenue.

The surrounding area is primarily commercial in character, with retail and restaurant uses located to the north, east, and south. Commercial and residential uses are located to the west and residential apartments are located to the east across Mount Vernon Avenue. Saint Rita’s Catholic Church and convent is located immediately to the northwest.

### BACKGROUND

A restaurant first opened at this site in 2002. City Council approved an expansion and a change of ownership in 2004. Staff administratively approved a change of ownership in 2007, at which time the restaurant became known as “Cerro Verde.” In 2010, the owners of Cerro Verde were found to be operating a nightclub business in this space on the weekends by renting the space out to third-party promoters who assessed a cover charge to customers and advertised entertainment that predominated over food service. In addition, the restaurant remained open after its approved closing hour and there was unusually high Police activity. That restaurant permanently closed in October 2010.

City Council granted SUP#2012-0028 for the operation of a new restaurant to the current applicant, Fossil, Inc., in May 2012. The new proposal contained many more seats than the prior restaurant, an earlier closing hour, and, at that time, no live entertainment. Staff has not received any complaints about the restaurant since it opened. It inspected the business in late June of this year as part of the standard one-year review (existing Condition #24). Although it found no

technical violations, staff observed musical equipment that potentially indicated the presence of live entertainment at the site. The applicants were reminded that no live entertainment is permitted at the restaurant. In a follow-up visit to the restaurant in July, no actual or potential SUP violations were found. The restaurant owners have submitted this application to obtain permission to provide limited live entertainment.

The subject property, with the neighboring Datatel property, was identified as one of three high-priority redevelopment sites in the 2003 Arlandria Neighborhood Plan (the Safeway/Datatel site). The owner of the Safeway building was involved in the creation of the Arlandria plan and has maintained contact with staff since that time. In 2008, the City completed a feasibility study that determined that redevelopment of the Safeway/Datatel site as envisioned in the Plan was not likely to occur in the near future.

### RECENT EVENTS

This Special Use Permit request was originally scheduled for the November docket. Following the issuance of the SUP report, staff received an anonymous complaint that the business may be operating in a manner inconsistent with its current SUP. Late-night hours, more robust live entertainment, and the assessment of a cover charge to customers were alleged in the complaint. Staff visited the site to investigate and found a somewhat livelier atmosphere than anticipated. At approximately 11:30 p.m., there was dance music playing inside the restaurant, but noise was not audible beyond the property line. Staff visited later in the night at 1:40 a.m., but was denied entry upon being told that the establishment was closed for the night. At that time, however, customers still appeared to be present inside. Staff recommended, and the applicant ultimately agreed, to a deferral of the request in order to discuss the general operation of the restaurant.

The applicant subsequently shared with staff that a special event occurred on the night in question and that it does not regularly operate the use late into the night or with significant live entertainment. Staff also discussed these recent developments with representatives of the surrounding community who indicated that no issues have arisen from this establishment. Staff agrees that no substantial changes to the proposal are necessary, but is recommending slightly stronger condition language than included into its November report to further prevent noise-oriented nuisances from arising at this business.

### PROPOSAL

The applicant proposes to add limited live entertainment to its 6,600 square-foot family-friendly restaurant serving primarily Mexican and Salvadorian cuisine. Live bands playing Hispanic “country music” will be present at the restaurant on Saturdays only and only between the hours of 8 p.m. and 11 p.m. Although some customer dancing may occur, the applicant does not plan to add a dance floor at the restaurant. Except for the proposed live entertainment and the elimination of carry-out service, all other elements of the existing restaurant operation will remain the same as in the previous SUP, as listed below:

Existing Hours:                              11 a.m. – 11 p.m. Sunday – Thursday  
   11 a.m. – 12 midnight Friday & Saturday

<u>Existing Seats:</u>	150
<u>Type of Service:</u>	Table service, bar service
<u>Customers:</u>	Up to 120 customers/day
<u>Employees:</u>	Up to eight
<u>Alcohol:</u>	On-premises alcohol service only
<u>Existing Live Entertainment:</u>	None existing. Several flat-screen televisions are present.
<u>Proposed Live Entertainment:</u>	Live bands playing Hispanic “country music” are proposed to play Saturdays only and only during the hours of 8 p.m. to 11 p.m.
<u>Delivery:</u>	No delivery of food to customers is proposed
<u>Noise:</u>	Noise level will be consistent with that of other restaurants. A sound engineer may be consulted.
<u>Odors:</u>	General restaurant odors will be filtered through existing ventilation and hood system.
<u>Trash/Litter:</u>	About two to four bags of food waste, wrappers, and other paper/plastic products will be generated each day will be stored in a sealed container for twice weekly pick-up.

#### ZONING/MASTER PLAN DESIGNATION

The subject property is located in the CDD#12 / Coordinated Development District #12, which has an underlying zoning of NR / Neighborhood Retail (Arlandria). Section 4-1404(M) permits a restaurant in the NR zone only with Special Use Permit approval. Although potentially eligible for minor amendment consideration pursuant to Section 11-511(A)(2) of the Zoning Ordinance, staff has brought forward this request for consideration as a full SUP with public hearings given the history of live entertainment at this site.

The proposed use, though not the existing building and surface parking, is consistent with the Arlandria Neighborhood Plan, a part of the Potomac West Small Area Plan chapter of the Master Plan, which designates the property for commercial use.

#### PARKING

According to Section 8-200(A)(8) of the Zoning Ordinance, one off-street parking space is required for every four restaurant seats plus one off-street loading space. A restaurant with 150 seats is required to provide a total of 38 off-street parking spaces. A total of 111 parking spaces

exist in the surface parking lot on the property, 67 of which count toward the existing retail uses in the building. The remaining 44 parking spaces and on-site loading areas fulfill and exceed the parking requirement for the use.

## **II. STAFF ANALYSIS**

Staff recommends approval of the applicant's request. Although the presence of live music has been a concern at this location in the past, the current request does not represent a return to nightclub-like activities that had proved to be problematic a few years ago and the current applicants are not the same individuals who operated the prior restaurant at the site. The offering of live entertainment within proscribed limits is a reasonable restaurant feature and will help ensure the continued success of this new business, which has operated without complaints for the last year.

Live entertainment has the potential to generate noise impacts on surrounding areas as a general matter. Although the subject location is primarily commercial in character, residences are located in the vicinity, including within a portion of St. Rita's Church located immediately next-door. Nonetheless, the applicant's live entertainment proposal is not likely to create significant noise and nuisance impacts. The live entertainment, consisting of live country bands, will be limited in scope such that the establishment will continue to function primarily as a restaurant. Although some dancing may occur, it is likely to be incidental and no dance floor will be installed. The applicant is proposing the live entertainment to occur only on Saturday nights and only between the hours of 8 a.m. and 11 p.m., which are not especially late hours on weekend nights. Staff has reinforced these limitations in amended Condition #6. The entertainment must remain subordinate to the restaurant use, including in any advertising, and will only be permitted on Saturdays from 8 p.m. to 11 p.m.

Staff also recommends three changes to Condition #7, which currently limits any background music that the applicant may play through speakers inside the restaurant to a soft level to the satisfaction of the Director. First, the language has been amended to retain a similar level of oversight regarding the volume of all music at the restaurant, including the live entertainment now proposed. Second, a new provision stipulates that staff may bring the SUP back for review at public hearings if violations of Condition #7 are verified or if any noise or disorderly conduct-related calls for service to the Police Department are recorded. The inclusion of the "calls for service" provision in this condition represents a change from the November report. Lastly, for clarity purposes, standard condition language prohibiting all amplified sounds from being audible past the property line has been relocated here from existing Condition #19 and will remain in effect. These changes to Condition #7 generally uphold the subordinate nature of the proposed live entertainment and represent further steps to mitigate potential noise impacts given the presence of residential uses in the area, including Saint Rita's.

Staff recommends few other SUP condition changes. New Condition #26 has been added to prohibit events at the restaurant that are managed by outside promoters who have little responsibility for the operation of the business and compliance with SUP conditions. In the only other significant change from the November report, staff has now recommended an amendment to the existing five-year review (existing Condition #25), in which the use's compatibility with

potential redevelopment in Arlandria will be assessed. Consistent with Planning Commission's recommendation at its November hearing that such reviews be coordinated with each other within the same area, staff is recommending that the review period be extended one additional year, to May 2018, to coincide with the approved SUP for the Exxon gas station at 4001 Mount Vernon Avenue. Aside from the timing change, the review condition language remains essentially the same. Existing special conditions originally suggested by Saint Rita's Church regarding property maintenance, lighting, deliveries, and dumpster pick-up have also been retained.

Saint Rita's Church reports that the applicant has reached out to church representatives regarding this SUP request. Conversations between the two parties have been positive and the church supports the request as outlined in its letter to Planning Commission (see attached). Subject to the conditions contained in Section III of this report, staff recommends approval of the 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 granted to the applicant only or to any corporation in which the applicant has a controlling interest. (P&Z) (SUP#2012-0028)
2. The maximum number of indoor seats at the restaurant shall be 150. No outdoor seats shall be allowed. (P&Z) (SUP#2012-0028)
3. **CONDITION AMENDED BY STAFF:** The hours of operation at the restaurant shall be limited to between 11 a.m. and 11 p.m., Sunday – Thursday and between 11 a.m. and 12 midnight Friday and Saturday. Meals ordered before 11 p.m. Sunday – Thursday or 12 midnight Friday and Saturday may be served, but no new patrons may be admitted and no alcoholic beverages may be served after 11 p.m. Sunday – Thursday or 12 midnight Friday and Saturday, and all patrons must leave by 12 midnight Sunday – Thursday or 1 a.m. Friday and Saturday. (P&Z) (SUP#2012-0028)
4. The applicant shall post the hours of operation at the entrance of the business. (P&Z) (SUP#2012-0028)
5. On-premises alcohol service may be permitted but off-premises alcohol sales shall be prohibited. (P&Z) (SUP#2012-0028)
6. **CONDITION AMENDED BY STAFF:** ~~No live entertainment shall be allowed at the restaurant.~~ Limited live entertainment shall be permitted inside the restaurant in the form of background music for restaurant patrons only on Saturdays between 8 a.m. and 11 p.m. No cover or admission fee may be assessed. 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. Live entertainment shall be prohibited outside the building. (P&Z) (T&ES) (SUP#2012-0028)

7. **CONDITION AMENDED BY STAFF:** ~~No sound amplification louder than soft background music~~ inside the restaurant shall exceed an acceptable volume level as determined by to the satisfaction of the Director of Planning and Zoning shall be permitted inside the restaurant. No amplified sounds shall be audible at the property line. The Director may re-docket this Special Use Permit for Planning Commission and City Council review as a result of verified violations of this condition or if any noise or disorderly conduct-related calls for service to the Police Department, directly attributable to this restaurant, are recorded. (P&Z) (T&ES) (SUP#2012-0028)
8. No delivery service of food to customers shall operate from the restaurant. (P&Z) (SUP#2012-0028)
9. **CONDITION DELETED BY STAFF (See Condition #3):** ~~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) (SUP#2012-0028)~~
10. 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) (SUP#2012-0028) (SUP#2012-0028)
11. No food, beverages, or other material shall be stored outside. (P&Z) (SUP#2012-0028)
12. Lighting in the rear alley shall be maintained to the satisfaction of the Director of Planning & Zoning and shall be shielded downward to prevent glare from impacting adjacent residences. (P&Z) (SUP#2012-0028)
13. The property shall be maintained in good condition, to include routine lawn maintenance and litter pick-up, to the satisfaction of the Director of Planning & Zoning (P&Z) (SUP#2012-0028)
14. 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) (SUP#2012-0028)
15. 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 or debris shall be allowed to accumulate on site outside of those containers. (P&Z) (SUP#2012-0028)
16. The applicant shall be prohibited from placing empty bottles or other glass or similar products in the dumpster behind the restaurant between the hours of 9 p.m. and 8 a.m. (P&Z) (SUP#2012-0028)



17. Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers. (T&ES) (SUP#2012-0028)
18. 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) (SUP#2012-0028)
19. **CONDITION AMENDED BY STAFF (See Condition #7):** All loudspeakers shall be prohibited from the exterior of the building, ~~and no amplified sounds shall be audible at the property line.~~ (T&ES) (~~SUP#2012-0028~~)
20. Except for dumpster pick-ups, supply deliveries, loading, and unloading activities shall occur only in front of the restaurant and shall be prohibited at the existing rear loading driveway or dock. No supply deliveries, loading or unloading activities of any kind shall occur at the restaurant between the hours of 11:00pm and 7:00am. (P&Z) (T&ES) (SUP#2012-0028)
21. 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) (SUP#2012-0028)
22. The applicant shall provide a menu or list of foods to be handled at this facility to the Health Department prior to opening. (Health) (SUP#2012-0028)
23. The applicant shall contact the Community Relations Unit of the Alexandria Police Department at 703-746-1920 regarding a security survey for the business and a robbery readiness program for all employees. (Police) (SUP#2012-0028)
24. **CONDITION AMENDED BY STAFF** The Director of Planning and Zoning shall review the Special Use Permit ~~after it has been operational for 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 the 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) (Police) (~~SUP#2012-0028~~)
25. **CONDITION AMENDED BY STAFF:** The Director of Planning and Zoning shall review the ~~application within five years of issuance of the SUP in order to review~~ Special Use Permit in May 2018 to assess the compatibility with the redevelopment within the Arlandria Small Area Plan. (City Council) (~~SUP#2012-0028~~)

26. **CONDITION ADDED BY STAFF:** Rental of the restaurant to third-party entities, such as event or party promoters, in which the third party entity has operational control of the premises, shall be prohibited. Restaurant management shall be on-premises at all times to monitor banquet hall activities for compliance with this condition and all other SUP conditions. (P&Z)
  
27. **CONDITION ADDED BY STAFF:** All waste products including but not limited to organic compounds (solvents), shall be disposed of in accordance with all local, state and federal ordinances or regulations. (T&ES)

STAFF: Alex Dambach, Division Chief, 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, operation shall be commenced 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 The following existing conditions should be retained as amended:

14. 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) (SUP2012-00028)
  17. Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers. (T&ES) (SUP2012-00028)
  18. 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) (SUP2012-00028)
  19. **CONDITION AMENDED BY STAFF:** All loudspeakers shall be prohibited from the exterior of the building, ~~and no amplified sounds shall be audible at the property line.~~ (T&ES)
  20. Except for dumpster pick-ups, supply deliveries, loading, and unloading activities shall occur only in front of the restaurant and shall be prohibited at the existing rear loading driveway or dock. No supply deliveries, loading or unloading activities of any kind shall occur at the restaurant between the hours of 11:00pm and 7:00am. (P&Z) (T&ES) (SUP2012-00028)
  21. 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) (SUP2012-00028)
- R-2 All waste products including but not limited to organic compounds (solvents), shall be disposed of in accordance with all local, state and federal ordinances or regulations. (T&ES)
- R-3 Live entertainment is restricted to inside the building between the hours of 8:00pm to 11:00pm on Saturday only. (T&ES)
- R-4 No amplified sounds shall be audible at the property line. (T&ES)

- R-5 Live entertainment outside the building is prohibited. (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. (T&ES) (SUP2012-00028)
- 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).

In order to comply with this code requirement, the applicant shall provide a completed Recycling Implementation Plan (RIP) Form within 60 days of City Council approval. Contact the City's Recycling Program Coordinator at (703) 746-4410, or via e-mail at [commercialrecycling@alexandriava.gov](mailto:commercialrecycling@alexandriava.gov), for information about completing this form. (T&ES) (SUP2012-00028)

Code Enforcement:

- F-1 The following comments for SUP review only. Once the applicant has filed for a building permit and additional information has been provided, code requirements will be based upon that information and the building permit plans. If there are any questions, the applicant may contact Ken Granata, Plan Review Division Chief at [ken.granata@alexandriava.gov](mailto:ken.granata@alexandriava.gov) or 703-746-4193.
- C-1 **Exits** shall comply with Sections of the USBC. An exit shall not be used for any purpose that interferes with its function as a means of egress. Once a given level of exit protection is achieved; such level of protection shall not be reduced until arrival at the exit discharge.
- C-2 New construction if any occurs must comply with the current edition of the Uniform Statewide Building Code (USBC).
- C-3 A Building permit is required if stage will be altered to accommodate performances
- C-4 Any alterations to electrical systems (Adding receptacles etc) to accommodate performances or equipment to support performances will need a permit and inspection prior to operation.

Health:

- F-1 No objection to live entertainment request

Parks and Recreation:

- F-1 No comments received

Police Department:

F-1 No comments received



# APPLICATION SPECIAL USE PERMIT

**SPECIAL USE PERMIT #** 2013-00069

**PROPERTY LOCATION:** 251 W. Glebe Rd. Alexandria, VA 22305

**TAX MAP REFERENCE:** 015.01-04-09 **ZONE:** CDD#12

**APPLICANT:**

Name: Fossal, Inc. d/b/a El Cuscatleco

Address: 251 W. Glebe Rd. Alexandria, VA 22305

**PROPOSED USE:** Family Restaurant

**THE UNDERSIGNED**, hereby applies for a Special Use Permit in accordance with the provisions of Article XI, Section 4-11-500 of the 1992 Zoning Ordinance of the City of Alexandria, Virginia.

**THE UNDERSIGNED**, having obtained permission from the property owner, hereby grants permission to the City of Alexandria staff and Commission Members to visit, inspect, and photograph the building premises, land etc., connected with the application.

**THE UNDERSIGNED**, having obtained permission from the property owner, hereby grants permission to the City of Alexandria to post placard notice on the property for which this application is requested, pursuant to Article IV, Section 4-1404(D)(7) of the 1992 Zoning Ordinance of the City of Alexandria, Virginia.

**THE UNDERSIGNED**, hereby attests that all of the information herein provided and specifically including all surveys, drawings, etc., required to be furnished by the applicant are true, correct and accurate to the best of their knowledge and belief. The applicant is hereby notified that any written materials, drawings or illustrations submitted in support of this application and any specific oral representations made to the Director of Planning and Zoning on this application will be binding on the applicant unless those materials or representations are clearly stated to be non-binding or illustrative of general plans and intentions, subject to substantial revision, pursuant to Article XI, Section 11-207(A)(10), of the 1992 Zoning Ordinance of the City of Alexandria, Virginia.

Nicholas Gehrig  
Print Name of Applicant or Agent  
510 King St., Suite 301  
Mailing/Street Address  
Alexandria, VA 22314  
City and State Zip Code

Signature  
8/28/13  
Date  
703-684-2000 703-684-5109  
Telephone # Fax #  
ngehrig@rpb-law.com  
Email address


<b>ACTION-PLANNING COMMISSION:</b> _____	<b>DATE:</b> _____
<b>ACTION-CITY COUNCIL:</b> _____	<b>DATE:</b> _____

**PROPERTY OWNER'S AUTHORIZATION**

As the property owner of 251 W. Glebe Rd. Alexandria, VA hereby  
(Property Address)  
 grant the applicant authorization to apply for the restaurant use as  
(use)  
 described in this application. 3600 MT VERNON, LLC.

Name: Wassberg Corporation Phone: 540 341-0019  
Please Print

Address: 29 Blackwell Park Warrenton, VA Email: n.wass@wscorp.com

Signature:  Date: 8/27/13

→ wassbergcorp.com

1. Floor Plan and Plot Plan. As a part of this application, the applicant is required to submit a floor plan and plot or site plan with the parking layout of the proposed use. The SUP application checklist lists the requirements of the floor and site plans. The Planning Director may waive requirements for plan submission upon receipt of a written request which adequately justifies a waiver.

Required floor plan and plot/site plan attached.

Requesting a waiver. See attached written request.

2. The applicant is the (check one):

Owner

Contract Purchaser

Lessee or

Other: \_\_\_\_\_ of the subject property.

State the name, address and percent of ownership of any person or entity owning an interest in the applicant or owner, unless the entity is a corporation or partnership, in which case identify each owner of more than ten percent.

Oscar Salinas, 1906 S. Langley St. Arlington, VA 22204.

Oscar Salinas is 100% owner/shareholder of applicant, Fossal, Inc.

PH

B-2 (min)

If property owner or applicant is being represented by an authorized agent such as an attorney, realtor, or other person for which there is some form of compensation, does this agent or the business in which the agent is employed have a business license to operate in the City of Alexandria, Virginia?

**Yes.** Provide proof of current City business license

**No.** The agent shall obtain a business license prior to filing application, if required by the City Code.

### **NARRATIVE DESCRIPTION**

**3.** The applicant shall describe below the nature of the request **in detail** so that the Planning Commission and City Council can understand the nature of the operation and the use. The description should fully discuss the nature of the activity. (Attach additional sheets if necessary.)

Applicant is seeking a modification to existing Special Use Permit  
 to allow limited live entertainment for Hispanic, El Salvadorian  
 and Mexican style restaurant, El Cuscatleco. Live entertainment  
 will be restricted to a band performance on Saturday night only  
 from the hours of 8:00 pm to 11:00 pm. Type of music will be  
 hispanic country music. There will be no dance floor but may  
 be a small amount of dancing. There will be no modification to  
 hours of operation or any other characteristic of the use or  
 operation of the restaurant. Restaurant is sit-down, family-style  
 with hours of operation from 11:00 am everyday of the week and  
 closing at 11:00 pm on all days but Friday and Saturday when  
 closing will be at 12:00 pm. There are numerous TV's for  
 sports and news entertainment. Food service will be primary focus  
 and will predominate over all other aspects of operation and  
 live entertainment will be ancillary to the primary focus.



**USE CHARACTERISTICS**

**REVISED**

4. The proposed special use permit request is for (check one):
- a new use requiring a special use permit,
  - an expansion or change to an existing use without a special use permit,
  - an expansion or change to an existing use with a special use permit,
  - other. Please describe: \_\_\_\_\_

5. Please describe the capacity of the proposed use:

A. How many patrons, clients, pupils and other such users do you expect?  
Specify time period (i.e., day, hour, or shift).

Sunday-Thursday                      lunch-50                      dinner-100

Friday-Saturday                      lunch-70                      dinner-120

B. How many employees, staff and other personnel do you expect?  
Specify time period (i.e., day, hour, or shift).

Sunday-Thursday                      lunch-5                      dinner-5

Friday-Saturday                      lunch-5                      dinner-8

6. Please describe the proposed hours and days of operation of the proposed use:

Day: \_\_\_\_\_ Hours: \_\_\_\_\_

Sunday-Thursday                      11:00AM - 11:00PM

Friday and Saturday                      11:00AM - 12:00PM

7. Please describe any potential noise emanating from the proposed use.

A. Describe the noise levels anticipated from all mechanical equipment and patrons.  
Noise level will be consistent with that of other restaurants.

There will be no amplified noise audible at the property line.

B. How will the noise be controlled?

Applicant will consult with a sound engineer to ensure  
that no amplified noise will be audible at the property line.

8. Describe any potential odors emanating from the proposed use and plans to control them:

There will be general cooking odor which will be filtered  
through existing ventilation and hood system.

9. Please provide information regarding trash and litter generated by the use.

A. What type of trash and garbage will be generated by the use? (i.e. office paper, food wrappers)

Paper, wrappers, and food particles.

B. How much trash and garbage will be generated by the use? (i.e. # of bags or pounds per day or per week)

Estimates 2 bags of trash on weekdays and 4 bags of trash  
on weekends.

C. How often will trash be collected?

Trash will be collected in sealed container and picked up  
twice a week.

D. How will you prevent littering on the property, streets and nearby properties?

Applicant will have employees pick up trash around the  
exterior of restaurant every morning

10. Will any hazardous materials, as defined by the state or federal government, be handled, stored, or generated on the property?

Yes.  No.

If yes, provide the name, monthly quantity, and specific disposal method below:

11. Will any organic compounds, for example paint, ink, lacquer thinner, or cleaning or degreasing solvent, be handled, stored, or generated on the property?

Yes.  No.

If yes, provide the name, monthly quantity, and specific disposal method below:

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12. What methods are proposed to ensure the safety of nearby residents, employees and patrons?

Applicant will coordinate with local crime prevention units and will employ a security guard on Saturday nights during live performances.

### ALCOHOL SALES

13.

A. Will the proposed use include the sale of beer, wine, or mixed drinks?

Yes  No

If yes, describe existing (if applicable) and proposed alcohol sales below, including if the ABC license will include on-premises and/or off-premises sales.

Restaurant will serve on premises beer, wine, and mixed beverages. Applicant expects alcoholic beverages will be accompanied mostly with main entree.

**PARKING AND ACCESS REQUIREMENTS**

14. A. How many parking spaces of each type are provided for the proposed use:

**REVISED**

- 111 Standard spaces
- Compact spaces
- 5 Handicapped accessible spaces.
- Other.

<p>Planning and Zoning Staff Only</p> <p>Required number of spaces for use per Zoning Ordinance Section 8-200A <u>          </u></p> <p>Does the application meet the requirement?</p> <p style="text-align: center;"><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
--

B. Where is required parking located? *(check one)*

on-site

off-site

If the required parking will be located off-site, where will it be located?

**PLEASE NOTE:** Pursuant to Section 8-200 (C) of the Zoning Ordinance, commercial and industrial uses may provide off-site parking within 500 feet of the proposed use, provided that the off-site parking is located on land zoned for commercial or industrial uses. All other uses must provide parking on-site, except that off-street parking may be provided within 300 feet of the use with a special use permit.

C. If a reduction in the required parking is requested, pursuant to Section 8-100 (A) (4) or (5) of the Zoning Ordinance, complete the PARKING REDUCTION SUPPLEMENTAL APPLICATION.

Parking reduction requested; see attached supplemental form

15. Please provide information regarding loading and unloading facilities for the use:

A. How many loading spaces are available for the use? 1

<p>Planning and Zoning Staff Only</p> <p>Required number of loading spaces for use per Zoning Ordinance Section 8-200 <u>          </u></p> <p>Does the application meet the requirement?</p> <p style="text-align: center;"><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
---

B. Where are off-street loading facilities located? Loading facilities  
located at rear of building

C. During what hours of the day do you expect loading/unloading operations to occur?  
10AM before restaurant opens

D. How frequently are loading/unloading operations expected to occur, per day or per week,  
as appropriate?  
Twice a week.

16. Is street access to the subject property adequate or are any street improvements, such as a new  
turning lane, necessary to minimize impacts on traffic flow?  
Access is adequate.

**SITE CHARACTERISTICS**

17. Will the proposed uses be located in an existing building?  Yes  No  
Do you propose to construct an addition to the building?  Yes  No  
How large will the addition be? \_\_\_\_\_ square feet.

18. What will the total area occupied by the proposed use be?  
6,600 sq. ft. (existing) + 0 sq. ft. (addition if any) = 6,600 sq. ft. (total)

19. The proposed use is located in: (check one)  
 a stand alone building  
 a house located in a residential zone  
 a warehouse  
 a shopping center. Please provide name of the center: the Safeway site  
 an office building. Please provide name of the building: \_\_\_\_\_  
 other. Please describe: \_\_\_\_\_

End of Application



# SUPPLEMENTAL APPLICATION

## RESTAURANT

All applicants requesting a Special Use Permit or an Administrative Use Permit for a restaurant shall complete the following section.

1. How many seats are proposed?  
Indoors: 150                      Outdoors: \_\_\_\_\_                      Total number proposed: 150

2. Will the restaurant offer any of the following?  
Alcoholic beverages (**SUP only**)                       Yes                      \_\_\_\_\_ No  
Beer and wine — on-premises                       Yes                      \_\_\_\_\_ No  
Beer and wine — off-premises                      \_\_\_\_\_ Yes                       No

3. Please describe the type of food that will be served:  
Hispanic (El Salvadorian and Mexican)  
\_\_\_\_\_  
\_\_\_\_\_

4. The restaurant will offer the following service (check items that apply):  
 table service                       bar                      \_\_\_\_\_ carry-out                      \_\_\_\_\_ delivery

5. If delivery service is proposed, how many vehicles do you anticipate? n/a  
Will delivery drivers use their own vehicles?                      \_\_\_\_\_ Yes                      \_\_\_\_\_ No  
Where will delivery vehicles be parked when not in use?  
\_\_\_\_\_

6. Will the restaurant offer any entertainment (i.e. live entertainment, large screen television, video games)?  
 Yes                      \_\_\_\_\_ No  
If yes, please describe:  
Limited live entertainment on Saturday night from the hours of 8pm - 11pm. Live entertainment will consist of Hispanic country music. Multiple televisions. Applicant will adhere to all noise limitations more specifically set forth in the SUP application.  
\_\_\_\_\_

*X* 22

**Parking impacts.** Please answer the following:

1. What percent of patron parking can be accommodated off-street? (check one)  
 100%  
 75-99%  
 50-74%  
 1-49%  
 No parking can be accommodated off-street
  
2. What percentage of employees who drive can be accommodated off the street at least in the evenings and on weekends? (check one)  
 All  
 75-99%  
 50-74%  
 1-49%  
 None
  
3. What is the estimated peak evening impact upon neighborhoods? (check one)  
 No parking impact predicted  
 Less than 20 additional cars in neighborhood  
 20-40 additional cars  
 More than 40 additional cars

**Litter plan.** The applicant for a restaurant featuring carry-out service for immediate consumption must submit a plan which indicates those steps it will take to eliminate litter generated by sales in that restaurant.

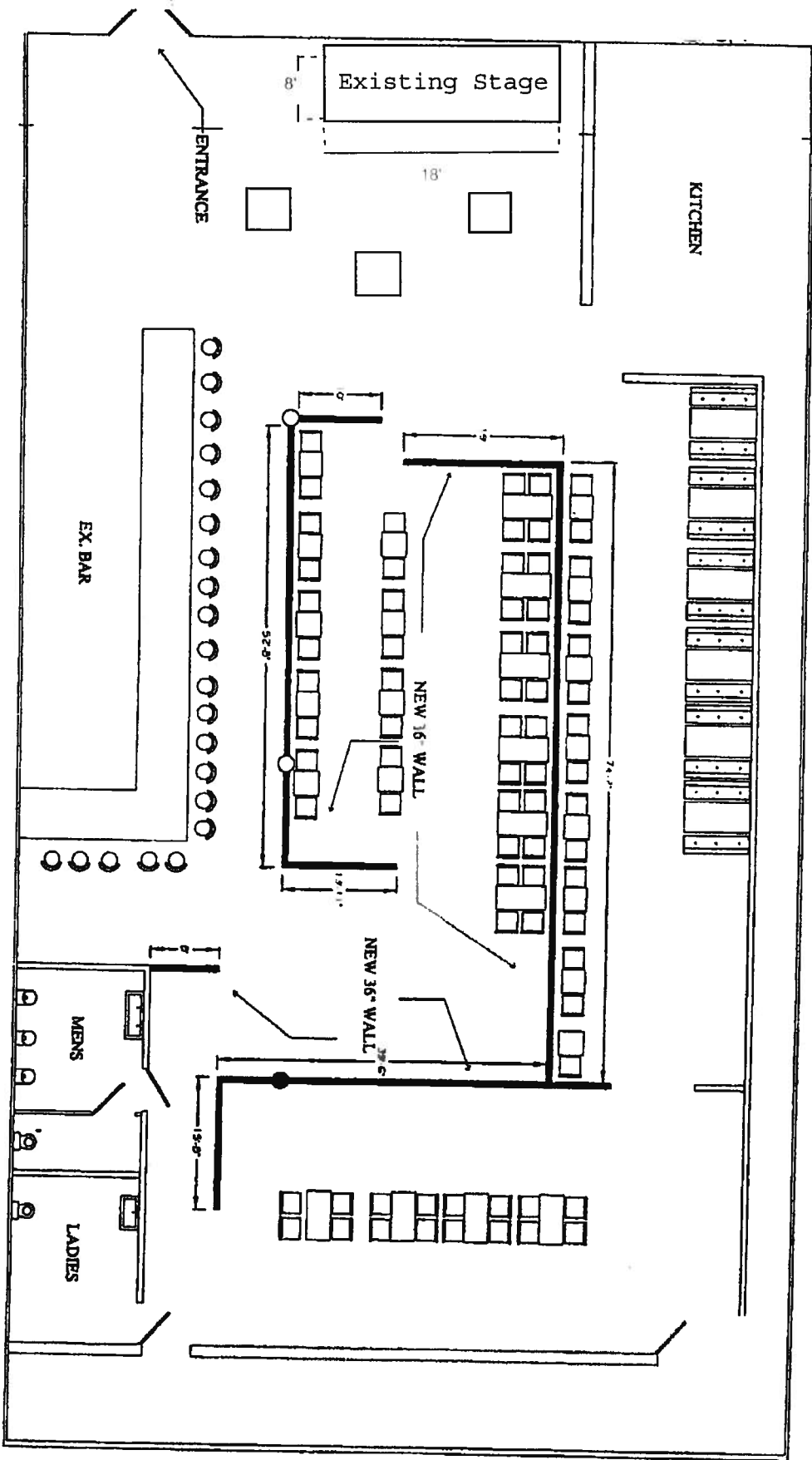
**Alcohol Consumption and Late Night Hours.** Please fill in the following information.

1. Maximum number of patrons shall be determined by adding the following:  
138 Maximum number of patron dining seats  
+ 12 Maximum number of patron bar seats  
+ Maximum number of standing patrons  
= 150 Maximum number of patrons
  
2. 8 Maximum number of employees by hour at any one time
  
3. Hours of operation. Closing time means when the restaurant is empty of patrons.(check one)  
 Closing by 8:00 PM  
 Closing after 8:00 PM but by 10:00 PM  
 Closing after 10:00 PM but by Midnight  
 Closing after Midnight
  
4. Alcohol Consumption (check one)  
 High ratio of alcohol to food  
 Balance between alcohol and food  
 Low ratio of alcohol to food

## Interior Floor Plan

23 24



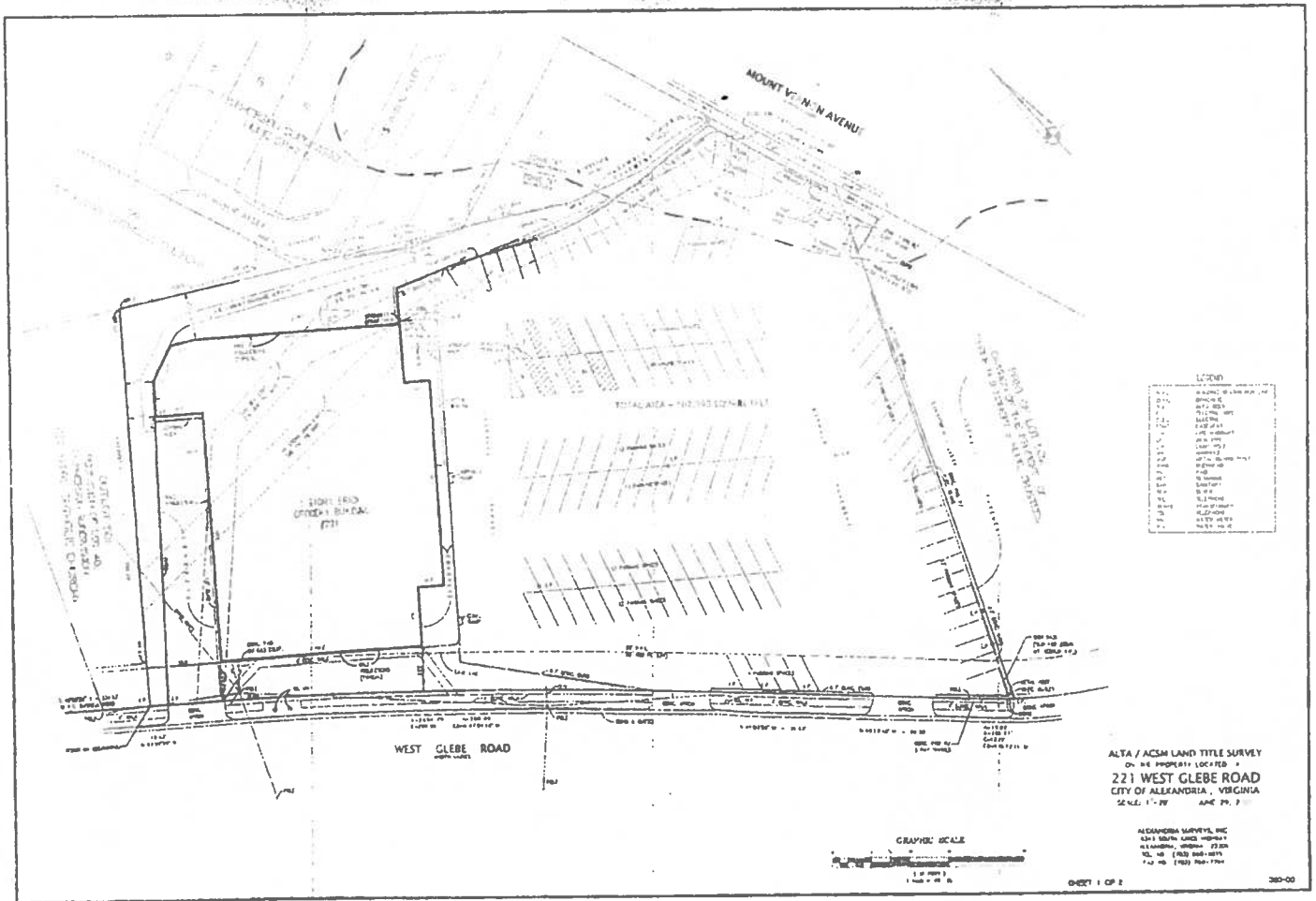


EL CUSCATLECO RESTAURANT  
 251 W GLEBE RD. ALEX. VA 22305

The Interior 6,600 SF ft

25

# Site Plan



26 27

# St. Rita Catholic Church

3815 Russell Road, Alexandria, VA 22305  
703-836-1640

October 17, 2013

Members, Alexandria Planning Commission  
H. Stewart Dunn, Jr.  
Derek Hyra  
John Komoroske  
Mary Lyman  
Nathan Macek  
Eric Wagner  
Maria Wasowski

Re: SUP#2013-00069

Dear Commissioners:

The St. Rita Church, School and Convent are located next to El Cuscatleco Restaurant located at 251 W. Glebe Road in Alexandria.

We recommend approval of the restaurant's request to modify their existing Special Use Permit to allow limited live entertainment which will be restricted to band performances of Hispanic country music on Saturday nights from the hours of 8:00 p.m. to 11:00 pm. The restaurant closes at midnight.

We have received assurances that the restaurant will prevent noise outside the building. We also understand that the restaurant's food service will continue to be the primary focus of the restaurant's operations. There will be no dance floor, but that they may be a small amount of dancing.

El Cuscatleco Restaurant's Rosa Tencio reached out to assure us they want to continue to be a good neighbor. The owners and managers are well aware that we had noise issues with the previous tenant and Rosa assured us there would be no problems with the addition of live music. We appreciate her understanding that the sisters in the convent are only a few yards from the restaurant and she is committed to not disturbing their evenings.

Thank you for considering our recommendation.

Sincerely,



Fr. Daniel Gee  
Pastor, St. Rita Church

X1 28

**REDMON, PEYTON & BRASWELL, L.L.P.**

COUNSELORS AT LAW  
510 KING STREET, SUITE 301  
ALEXANDRIA, VIRGINIA 22314  
TELEPHONE (703) 684-2000  
FACSIMILE (703) 684-5109

Nicholas J. Gehrig  
ngehrig@rpb-law.com

November 13, 2013

**VIA EMAIL ONLY**

Department of Planning and Zoning  
City of Alexandria  
Attn: Nathan Randall ([Nathan.randall@alexandriava.gov](mailto:Nathan.randall@alexandriava.gov))  
And Alex Dambach ([alex.dambach@alexandriava.gov](mailto:alex.dambach@alexandriava.gov))

**Re: Special Use Permit #2013-0069  
251 West Glebe Road – El Cuscatleco Restaurant**

Dear Messrs. Dambach and Randall:

By way of this letter, my client, El Cuscatleco Restaurant, desires to modify the Narrative Description set forth in the SUP Application referenced above, to read as follows:

Applicant is seeking modification to an existing Special Use Permit to allow an expansion to the scope and operation of the restaurant allowing for a more energetic atmosphere in the late evening hours. Although the restaurant is primarily a sit-down, family-style restaurant, in the late evening hours, particularly on weekend nights, the emphasis will shift from family-style restaurant to a social gathering-type atmosphere where patrons will either sit at, or stand near, the bar area, in addition to those seated at tables.

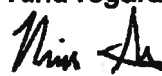
Applicant desires to add live entertainment in the form of a live band one night per weekend only from the hours of 8:00 pm to 11:00 pm. The type of music will be Hispanic country or folk music. Although there is no permanent dance-floor, there is some open-space within the restaurant where some patrons may dance.

There will be no modification to the hours of operation or any other characteristic of the use or operation of the restaurant. Hours of operation will be from 11:00 am until 11:00 pm on all days but Friday and Saturday where the restaurant will close at 12:00 pm. There are numerous TV's for sports and news entertainment.

In no event, is the applicant desirous of converting this restaurant into a night-club and food service will remain the primary focus and predominate over all other aspects of operation with live entertainment ancillary to the primary focus.

Thank you for your time and consideration.

Kind regards,



Nicholas Gehrig