

**Text Amendment #2010-0001 Small Business Zoning**

<b>Issue:</b> Small Business Zoning Regulations	Planning Commission Hearing:	May 4, 2010
	City Council Hearing:	May 15, 2010
<b>Description:</b> Initiation of a text amendment and an amendment to the City's Zoning Ordinance regulations related to small businesses. Applicant: City of Alexandria Department of Planning and Zoning		
<b>Staff:</b> Faroll Hamer, Director, Barbara Ross, Deputy Director, Nathan Randall, Urban Planner, Mary Christesen, Urban Planner, Kendra Jacobs, Supervisory Administrative Officer.		
<b>Staff recommendation:</b> Staff recommends that the Planning Commission INITIATE and recommends APPROVAL of the text amendment.		

**CITY COUNCIL ACTION, JUNE 12, 2010:** City Council approved the Planning Commission recommendation. City Council adopted the Planning Commission recommendation with an amendment to Section 11-511(c)(4) on page 35, and Section (b)(1) on page 37, that the appeal process go from 14 days to 30 days for both appeals; an amendment that the number of seats can't exceed the administrative cap; and on page 36, Section 11-513(a)(2) as relates to the notification, to add reference to ENews and leave it up to staff how best and which vehicles to use to get notification out prior to the approval or possible approval.

**PLANNING COMMISSION ACTION, JUNE 3, 2010:** On a motion by Mr. Dunn, seconded by Ms. Fossum, the Planning Commission initiated the text amendment. The motion carried on a vote of 7 to 0.

On a motion by Mr. Dunn, seconded by Ms. Fossum, the Planning Commission voted to recommend approval of the text amendment with amendments. The motion carried on a vote of 7 to 0.

**Reason:** The Planning Commission agreed with the staff analysis but made the following changes:

- 1) Accepted staff substitute pages 18 and 19 in its memorandum dated May 26, 2010,
- 2) Approved staff's proposed changes in its memorandum dated June 1, 2010,
- 3) Amended Section 11-513(A)(2) to clarify notice requirements,
- 4) Amended Section 11-511(A)(2)(e) to address community issues in SUP approvals in the minor amendment context, and
- 5) Amended staff's changes to 11-513(M) to add the West Old Town neighborhood and to change the closing hours for outdoor dining to 10:00pm Sunday-Thursday and 11:00pm Friday and Saturday.

**Speakers:**

Tina Leone, president and CEO, Alexandria Chamber of Commerce, spoke in support of the text amendment.

Heidi Ford, president, West Old Town Civic Association, raised concerns about the appeal process, adequate notice, and minor amendments.

Sarah Becker, 1200 Princess Street, raised concerns about alcohol sales in West Old Town and about the completeness of information being presented regarding Special Use Permit cases.

Leslie Zupan, 1309 Queen Street, expressed concerns with regard to appeals, failure to notify civic associations and loopholes in minor amendments.

Charlotte Landis, 433 North Patrick Street, echoed concerns regarding adequate notice to civic associations and welcomed recent updates to the proposal that recognize neighborhood standards for West Old Town.

Scott Kersjes, president, West End Business Association, spoke in support of the proposed text amendment and stated that the amendments will help existing and prospective businesses.

Dak Hardwick, representing Cameron Station Civic Association and Cameron Station Homeowners' Association, spoke in support and stated that the changes will help encourage growth of the business in Cameron Station.

Amy Slack, Co-Chair, Del Ray Land Use Committee, raised questions about the definition for outdoor seating, agreed with changes in staff's June 1 memo, and had concerns about the changes related to parking.

Harry 'Bud' Hart, attorney and resident, spoke in support of the text amendment.

Mike Anderson, business owner, spoke in support of the text amendment.

David Fromm, president, Del Ray Citizens' Association, noted his appreciation for the concept of streamlining processes for businesses, asked for a delay of items #6 and #7 in the proposal so that a neighborhood standards table could be included, asked for a delay for the shared parking portion of the proposal, and expressed concern for the FAR bonus for day care centers as applied to development on Mount Vernon Avenue.

Val Hawkins, president, Alexandria Economic Development Partnership (AEPD), spoke in support and stated that the recommendations stem from the mayor's economic sustainability initiative and align with the City's Strategic Plan. He urged the City to be careful about creating too many layers and different standards that would be hard for businesses to understand but offered to work on a document that listed different standards in different neighborhoods.

Bill Regan, Executive Director, Alexandria Small Business Development Center, spoke in support and stated that the City's current process is still too difficult and costly for prospective businesses.

**PLANNING COMMISSION ACTION, MAY 4, 2010:** The Planning Commission noted the deferral.

## I. SUMMARY

Planning and Zoning presents a series of new recommendations in this report which adjust, improve and continue the work on the small business zoning program begun over a year ago. The following is a summary list of the proposed zoning changes discussed in detail in this report, with the specific text changes shown in Attachment 1.

- **New administrative SUP uses**
  - valet parking
  - outdoor dining
  - massage establishment
- **Additional industrial zone uses**
  - Personal service
  - Health and athletic club
  - Business or professional offices
  - Light assembly/crafts
- **Additional flex space uses in OCH**
  - Light auto repair
  - Catering
  - Health and athletic club
- **Cameron Station business relief**
  - Additional uses permitted
  - Eliminate SUP or administrative SUP requirement
- **Restaurants**
  - Increase administrative restaurant seating to 100
  - Refine “full service” requirement for administrative SUP
  - Add definitions for accessory restaurant and nightclub
- **Expansion of Minor Amendments**
  - Allow up to 20% expansion, with maximum threshold
  - Allow additional features, consistent with administrative SUP standards
- **Bonus density for day care centers**
  - Up to maximum 10,000 square feet
  - SUP required to change use in future
- **Administrative parking reduction for shared parking**
  - Each use must have required parking for its hours of operation
- **Text corrections**
  - Parking for outdoor dining in NR and Mount Vernon Overlay Zone
  - Day care and outdoor dining in NR zone
  - Day care in KR zone
  - Health Department review of overnight pet boarding

## II. BACKGROUND

In June 2006 the City Manager created the Small Business Task Force whose mission was to review the full scope of issues related to how the City interacts with small businesses. Working over the course of a year, the Task Force developed and Council endorsed a wide range of recommendations for change. The effort is designed to streamline processes and avoid unnecessary regulatory hurdles, thereby giving small business operators an easier and clearer path to choosing Alexandria as their business location and being successful here. As to those suggestions related to zoning requirements and processes, Planning and Zoning continues to work to ease or eliminate unnecessary hurdles for businesses. A variety of steps have already been implemented. Improvements in 2009 include:

- Opening of Permit Center (12/08)
- A Frame Sign Program for King Street
- Outdoor display of rental bikes
- Administrative approval of BAR signs
- Wayfinding Program (in progress)
- Small Business Zoning Program (12/08)

### *Small Business Zoning Program*

As to the Small Business Zoning Program of 2008 it changed the zoning ordinance by eliminating the Special Use Permit requirement in some cases and adding:

New permitted uses:

- child care center in commercial zones
- small schools, up to 20 students
- health and athletic center in shopping center, flex space center or office complex
- convenience store in office complex
- restaurant in shopping center, hotel or flex space (not KR, CD or CRMUX)

New Administrative SUP uses:

- child care center or preschool in church or school building in residential zones
- small garden centers
- outdoor food and crafts market
- overnight pet accommodations in shopping center
- light auto repair in flex space center
- catering in flex space center
- restaurants (60 seats, full service)

The administrative special use permit system has been a principal component of the small business program. While change of ownership cases, minor amendments and a handful of administrative SUPs were available previously, the small business zoning program expanded the concept significantly. It increased the number of uses available as administrative SUPs, added clear standards in the zoning ordinance for approved permits, and created a process that includes notice to civic and business associations prior to the Director making decisions on a particular administrative SUP case. The program is codified at section 11-513 of the zoning ordinance.

As with any new program, P&Z staff has spent a considerable amount of time providing internal training for counter staff, working with its sister agencies involved in the review process, finalizing and implementing the administrative SUP checklist for applicants and staff, and working with the Small Business Development Center, the Permit Center, and with citizens and applicants to make the process of applying for and receiving an administrative SUP as clear, simple and quickly achieved as possible.

***Experience under Small Business Zoning Program***

Council requested that staff report on the success of the program after a year’s time, and also report as to whether additional steps could be taken to adjust and advance the program. As discussed at work sessions with the Planning Commission and City Council earlier this year, the following statistics indicate that the small business zoning has been successful. In 2009, there were 36 applications for SUPs, 21 of which were for amendments that required a full hearing.

<b>SUP Hearing Cases</b>	<b>36</b>
Restaurant	19
Convenience Store	3
General Auto Repair	2
Home Day Care	2
Other SUPs	10

There were 30 cases filed that met the criteria for administrative SUPs. The Director determined that three of those cases should require a full hearing because there were significant objections from neighbors, owners, and others. No cases were denied. There were no appeals.

<b>Administrative SUP Cases</b>	<b>30</b>
Approved	27
Denied	0
Appeal	0
Sent to hearing	3

Finally, it is significant to note that 25 new uses were allowed as permitted uses as a result of the small business zoning changes.

<b>New Permitted Uses Approved</b>	<b>25</b>
Small schools	18
Restaurants	2
Day Care	2
Light Automobile Repair	2
Catering	1

A full 50% of the cases that in 2008 would have required a full SUP, with two public hearings, were able to proceed in a shorter time, without hearings, and with success. They included 11 new administrative SUP cases and 25 permitted uses.

***Community Discussion***

Over the past several months, P&Z staff has discussed the Small Business Zoning program with the community in a series of meetings, including initially with members of the following groups:

Small Business Task Force  
Small Business Development Center  
Chamber of Commerce's Alexandria Business Association Group  
Old Town Business and Professional Association  
Del Ray Business Association  
West End Business Association  
Federation of Civic Associations  
Del Ray Civic Association  
Old Town Civic Association  
Cameron Station (with representatives of both the Civic Association and the Homeowners' Association)

Staff solicited reactions to the existing program and suggestions for improvements. With input it received from its initial meetings, from work sessions with the Planning Commission and City Council and from a Community Meeting held on March 25, staff recommends that the following changes be made.

Since the deferral from the Planning Commission in May, staff has met with West Old Town Civic Association, Seminary Hill Civic Association and the Federation of Civic Associations, and held another community meeting on May 20, 2010.

**III. SMALL BUSINESS ZONING RECOMMENDATIONS (2010)**

***I. NEW ADMINISTRATIVE SUPS***

Staff recommends adding the following three uses so that they are allowed by administrative SUP in each nonresidential zone.

- Massage establishment
- Valet parking
- Outdoor dining

Outdoor dining and massage establishments are now allowed in most commercial zones but require a special use permit. Valet parking is not now allowed except by administrative SUP in the KR (King Street) zone. Outdoor dining is permitted by administrative SUP in the NR and Mount Vernon Overlay zones, as well as within the area covered by the King Street Outdoor Dining Program. There appears to be no reason not to allow these uses and features of uses where appropriate throughout the City, and the administrative SUP process, with standards, is a reasonable mechanism for determining if the proposal is appropriate at a given location. As an example, when the Chez Andre restaurant recently sought to add outdoor dining, it was required

to be reviewed by the regular SUP process, with full public hearings. The change proposed now would have allowed that restaurant to take advantage of the administrative process.

## **2. ADDITIONAL INDUSTRIAL ZONE USES**

The industrial zone was originally designed in the 1992 comprehensive zoning revision as a true industrial zone. It allowed a large number of industrial and service uses as permitted and special uses but prohibited other uses, such as office, residential or retail uses. The thought at the time was that, with so little industrial land in the City, it was important to retain it for industry; otherwise, it was possible that there would be little or no land for these uses, historically part of this and other cities. However, over time, the restricted uses in the zone have changed. Retail, office uses and restaurant uses were added in 1994. Amusement enterprises (movie theaters) and bakeries were added in 1995 and 1997, respectively.

Much of the City's industrial land, for example in the Oakville Triangle, on Colvin Street, and along South Pickett Street (south of Edsall), contain good "incubator" space, where small businesses often seek to locate. Staff frequently receives requests for fairly benign uses, such as personal training classes, in those locations and it must typically reject the businesses because they are not allowed in the I/Industrial zone. Therefore, staff reviewed the zoning ordinance to find uses that would be compatible with existing and future industrial or service uses and proposes to add the following to the I/Industrial zone.

- Personal service (includes small schools)
- Health and athletic club
- Business or professional offices
- Light assembly/crafts

Staff held a community meeting in March to discuss its small business recommendations and heard concern expressed about this proposal, given that there has been no formal study to determine the City's overall future needs for industry and service uses, and the economic consequence to the tax base of allowing more uses to erode the available land for industry. Staff understands the concern, and shares it to some extent. Staff also heard support for this change from business interests and individual applicants. On balance, staff supports the change, noting that the significant industrial users are unlikely to be affected and that the City's more typical "industrial" uses in its few industrial land areas tend to be auto related. That situation will not change: auto and other service uses will continue to be allowed. The few proposed additional uses are neither inappropriate nor likely to overwhelm other uses in such areas.

Although not staff's recommendation, this proposal could be limited only to uses within flex space buildings within the I/Industrial zone. Such buildings now exist within the Oakville Triangle and along South Pickett, but are not present on Colvin Street. The rationale would be that such buildings were built for just the desired purpose: they are flexible and an appropriate location for a variety of uses under one roof.

### ***3. ADDITIONAL FLEX SPACE USES***

One popular change in the prior small business zoning package has been allowing administrative approval for some uses in the industrial or flex space buildings along Eisenhower Avenue which contain multiple tenants and, again, provide good incubator space for small businesses. The prior change allowed light auto repair and catering uses in an industrial or flex space building as administrative SUP uses instead of by the traditional SUP. In addition, a health and athletic club in an industrial or flex space building is permitted in OCM (100) as a permitted use. These changes were limited to the OCM-100 zone because that zone covers most of the land targeted for change on Eisenhower Avenue. The 2008 amendments also included a definition of “industrial or flex space center.”

There are still a few additional flex space buildings, however, on Eisenhower Avenue which are outside the OCM-100 zone which could also be allowed similar uses under similar conditions. Six flex space buildings on four properties are located at 5202-5432 Eisenhower Avenue and are zoned OCH. Staff therefore recommends that the same uses in flex space centers that are allowed in OCM-100 be also allowed in OCH. Staff has reviewed the zoning map and found that, while there are other areas zoned OCH, they do not include the flex space building types, so this proposed change will affect only the Eisenhower Avenue locations.

### ***4. WHOLESALE BUSINESSES***

Staff has been concerned about the burden of SUP approval for wholesale businesses outside of the I/Industrial zone even though some wholesale operations amount to little more than office uses. Staff has determined that this problem is best solved internally, by interpretation, to make clear that what is essentially an office is deemed an office as a zoning matter. No zoning text change is necessary.

### ***5. CAMERON STATION BUSINESSES***

Since it opened, the commercial area along two blocks of Ben Brenman Drive in Cameron Station has suffered from its location, its size and the overall economic downturn. As originally adopted, the DSUP for the area was extremely limited as to what uses could be allowed in the space and the regulatory process that was required for those uses. Over time, the City has assisted with additional signage, a farmer’s market, and with zoning changes. Last year, under TA2009-03, the space was brought within the small business zoning program, allowing it to take advantage of that new system.

Staff is now recommending additional zoning assistance. Specifically, staff recommends that additional uses be permitted, restrictions on uses be lifted and that no SUP or even administrative SUP be required. These new regulations will supersede the restrictions in the DSUP that governs the development as a whole.

**Retail uses** are currently limited to antiques, appliances, commercial art galleries, art supplies, bakeries, books, candy, clothing, clothing accessories, dry goods, department stores, floor coverings, florists, furniture, groceries, hardware, paint and wallpaper, household goods, jewelry,

leather goods, luggage, lawn and garden supplies, musical instruments, photographic equipment and supplies, sporting goods, tobacco, toys, variety goods and video rental and sales. Staff proposes to expand the list to be consistent with the zoning ordinance definition of “retail shopping establishment,” which provides for a few more uses, namely: drugstores, secondhand articles, and auto parts (without service or installation on premises)

**Personal service** uses are also limited under the DSUP. They are limited to arts and crafts studio, banks, savings and loans, credit unions, bicycle repair, barber shop and beauty shops, dressmaker and tailor, dry-cleaning (pick up and drop off), musical instrument repair, optical center, professional photographer studio, furniture upholstery and printing/photocopying. Staff proposes to allow the full list of personal service uses from the zoning ordinance section which will add appliance repair and rental, contractor’s office (without accessory storage), Laundromat, locksmiths, pawnshops, shoe repair and watch repair.

**Office use** is now restricted in two ways. First, only professional offices are permitted. The conditions include medical offices, but not clinics, and exclude general business or sales offices, as permitted elsewhere in the commercial zones. In addition, of the 24,000 total square feet of commercial space, offices are limited to no more than 30% of the gross floor area of the commercial space, but may be increased to 40% after retail space remains vacant for two years. Staff proposes to allow business and professional offices, as well as medical offices, consistent with the zoning ordinance definitions, and also to remove the restrictions on the relative amount of space that offices may occupy.

**Additional permitted uses** are also proposed by staff, to include

- Church
- Medical Laboratory
- Pet supplies, grooming and training with no overnight accommodations
- Convenience store
- Health and athletic club
- Catering
- Medical Offices
- Medical Care Facility

The above changes will bring the commercial space into conformity with other commercially zones areas of the City.

**By Administrative SUP** the following uses are currently allowed: restaurant, day care center, and massage establishments. Staff proposes to eliminate the need for an administrative SUP. Staff proposes these comprehensive changes, removing essentially all zoning requirements that limit the use of the commercial space at Cameron Station. The text is found in Attachment 1 at Section 5-513(O)(1), p. 47.

## 6. RESTAURANTS

Staff is recommending four changes with regard to the manner in which the City reviews restaurant uses, including:

- Increase size criteria for administrative SUP from 60 to 100 seats
- Revise “full service” requirement for administrative SUP
- Add definition of “accessory restaurant” and
- Add definition of “nightclub”

None of these proposals will change the way restaurants are treated now in Old Town.

### *Increase size criteria for administrative SUP to 100 seats*

Staff is recommending that the size criteria for an administrative SUP for a restaurant, now capped at 60 seats, be changed, increasing the maximum size of administratively approved restaurants to 100. Staff, with the help of the Health Department, as well as its own restaurant data, surveyed the size of restaurants in the City. The vast majority of restaurant businesses have 60 seats or fewer. A summary of the City’s restaurant statistics is as follows:

<u>Number of seats</u>	<u>Number of restaurants</u>
0-60	175
61-100	59
101-125	13
126-200	48
201 +	29

Restaurants in the 61 to 100 seat category include such establishments as Overwood, Thai Peppers, Royal Restaurant, Bread and Chocolate, Layla’s, Vaso’s Kitchen, Chicken Out, Perk’s Coffee Shop, Noodles & Company, Potbelly Sandwich Works, Monroes, Bittersweet, Jimmy John’s, Asian Bistro, Tempo, Yves Bistro, Majestic Café, Red Rocks Pizza, Villa D’Este, the International House of Pancakes on Duke Street, and King Street Blues.

This change would increase the number of restaurants that could be allowed administratively – based only on the number of seats – by approximately one-third, for a total of approximately two-thirds of all restaurants in the City.

Staff supports the change because it believes there are sufficient protections in the administrative standards and process already in place, and because the proposal is a simple change to ease the burden on what could be a significant number of new businesses.

***Revise “full service” requirement for administrative SUP***

Most restaurants that cannot be processed administratively do not meet the requirement of being a “full service” restaurant. In order to qualify for administrative review, Section 11-513(L) of the zoning ordinance now requires that a restaurant offer:

*full service, including printed menus and wait service provided at tables and preset tables with nondisposable tableware.*

When staff discussed its tentative recommendations with City Council in January, it highlighted this issue and the option of eliminating the full service requirement. City Council suggested that staff retain the requirement, finding it an important distinction because it separates fast food establishments and other take out restaurants that may not be compatible with the character of some neighborhoods. Council suggested that staff look at different ways to define “full service” in order to allow some restaurants of less impact to proceed administratively.

Coffee shops and ice cream stores

Staff has spent considerable time researching options within the full service – fast food continuum, and recommends that the full service language specifically exclude coffee and ice cream shops, defined as:

*A small restaurant, typically no more than two thousand square feet in area, where the principal business is either the sale of coffee and other hot beverages or the sale of ice cream, frozen yogurt or other related confections. Pastries, baked goods, cold beverages, sandwiches and other light fare may also be sold incidental to the service of coffee, but no alcohol is served, no entertainment takes place and no significant cooking, other than the application of heat by microwave, electric burner, espresso machine, the heating of soup or the boiling of water, typically takes place.*

The above language attempts to isolate very small operations that, while not without some potential small impact, are qualitatively different from other non-full service restaurants, and therefore appropriate for administrative review. Examples of existing businesses that would have been able to be approved administratively under this proposal include Mishas, the Uptowner, Starbucks, Firehook, Dunkin Donuts, Grape and Bean, Perk Up Coffee House on South Washington Street, Cold Stone Creamery, Dairy Godmother, Pop’s, Baskin Robbins, and Ben & Jerry’s. Some restaurants that would not fit within this new category include Buzz (alcohol, entertainment), St. Elmos (entertainment), Caboose Café (meals), Bread and Chocolate (meals), Cosi (meals), Perk’s Coffee Shop, North Fairfax (meals), Breugger’s (4000 sf). In addition, the restaurants in the first, potentially permitted group are offered as examples only; those that are located in Old Town, where the administrative SUP is not applicable, would not be able to be approved administratively.

Staff acknowledges that some of the uses that may be permitted under this proposal constitute “fast food” facilities, such as Starbucks and Dunkin Donuts, but finds that the potential harm of

allowing some formulaic businesses at this very small scale is outweighed by the significant benefit of processing the group of small businesses without the burden of the full SUP process.

#### “Fast Food” Restaurants

As an alternative to the above refinement of the full service requirement, staff considered whether the City could easily distinguish between “fast food” and other restaurants, with the goal of requiring the traditional SUP process for “fast food,” and allowing others, even if not full service as now defined, to proceed administratively. Staff is not recommending this alternative, because it finds it difficult to fairly define “fast food” and to do so in a way that captures problem restaurants and does not include those that have fewer land use impacts. While it is true that there are many jurisdictions that define and regulate fast food restaurants, they operate very differently from Alexandria. The distinction is that Alexandria begins by regulating *all restaurants*, and seeks to isolate from that universe only “fast food establishments;” other jurisdictions define “fast food” restaurants, isolating them from the remainder of restaurants *which are not regulated*.

As an example, the following potential definition includes language and fast food characteristics often found in other zoning ordinances:

*Fast food restaurant shall mean any restaurant in which the usual and customary operations include three or more of the following characteristics:*

- (1) Long hours of service, 12 or more hours;*
- (2) food is served in disposable containers;*
- (3) no seats or tables are provided;*
- (4) customers select and order food from a permanent menu board;.*
- (5) a grease fryer is used to prepare food; or*
- (6) a formula is followed and required by contractual or other arrangement, under which any of the following are offered: standardized menu, ingredients, employee uniforms, interior and/or exterior color scheme, architectural design, signage or similar standardized features; or which adopts a name, appearance or food presentation format which causes it to be substantially identical to another restaurant regardless of ownership or location.*

With the above language used to define those ineligible for administrative approval, the following examples are the few restaurants staff could identify that would be able to proceed but cannot under the current “full service” definition: Picca Deli, La Madeline, Eamon’s, Café Pizzaiolo, and Noodles and Company. Staff shares this information but does not recommend adding this refinement to the full service criteria for administrative SUP approval.

#### ***Add definition of “accessory restaurant”***

Staff is proposing two new definitions to the zoning ordinance which help distinguish the manner in which the city regulates restaurants, isolating certain types of food service businesses from others. First staff is proposing that its practice be codified by adding the following definition of an accessory restaurant:

*Accessory restaurant. A use involving the sale or presentation of food and beverages which is clearly subordinate in area, extent, and purpose to an approved principal use and which is customarily found in connection with and serving that principal use. Typically, an accessory restaurant is not larger than 33% of the floor area of the entire business; does not offer table or delivery service; does not have hours of operation longer than the principal use; and does not have a separate entrance.*

Some examples of existing and hypothetical accessory restaurants include:

- Starbucks Coffee outlet, with drinks, pastries and prepackaged sandwiches, within a bookstore, such as Barnes & Noble;
- Grocery stores of any size offering food, even prepared or heated sandwiches, and with or without small seating areas– Whole Foods, Harris Teeter, Gitum Grocery (Edsall Road);
- Restaurant within Costco, BJs or Target;
- Wine or beer shops that have tasting events – Planet Wine;
- Specialty food shops offering tastings or small scale food menu – Great Harvest Bread, La Fromagerie;
- Other retail shops offering tastings or informal food or beverage instruction – The Hour on King Street, kitchen shops offering accessory food classes or demonstrations;
- Museums or galleries (snack bar, café or catered receptions); and
- Coffee and tea accessory to a retail bakery.

***Add definition of “Nightclub”***

The city has experienced a number of instances of a very intense use of an existing restaurant, when it features live bands and dancing, includes a cover charge, and otherwise ceases to be a dining establishment. In those cases, in addition to typically being in violation of its restaurant SUP, the business is no longer a “restaurant,” and has become a different zoning use. In order to assist in enforcement, to identify those features of such businesses that the City considers being outside of the “restaurant” definition, and, again, to distinguish different uses for different regulatory mechanisms, staff proposes to add to the zoning ordinance the following definition:

*Nightclub. A restaurant where entertainment, live or otherwise, predominates over food service, becoming the principal use at least during part of the business’ operations, with or without dancing, and typically involving a cover or other charge for admission.*

Examples of facilities that would have been considered nightclubs include Floyds, on Stevenson Avenue; Nicks, on South Pickett Street; My Bakery/Club Lush, in Arlandria and Mr. Days, in Arlington.

It is not staff’s intention to require existing restaurants that are in compliance with their SUPs to be reclassified; rather, staff intends this new definition to assist enforcement when existing restaurants operate outside the bounds of their SUPs. Further, when new establishments seek

approval in the future, and include features within the new definition, they will be considered for SUP approval as a nightclub.

## **7. *POTENTIAL EXPANSION OF MINOR AMENDMENT***

Staff is recommending that the minor amendment provisions be amended to allow more expansions to proceed without the necessity of a full SUP review with public hearings. The current minor amendment procedure, found at section 11-511 of the zoning ordinance, is available only for SUPs approved by City Council. It does not apply to administratively approved SUPs; businesses outside Old Town that meet the administrative criteria can apply as many times as they wish for an administrative SUP until they meet the maximum size and extent that the administrative standards allow. To qualify as “minor” and be processed administratively, the proposed change to the approved SUP must not exceed the following:

- A minimal enlargement or extension;
- A change so insignificant, when compared to the overall use, that there will be little or no impact on the neighborhood;
- A change to the character of the use or an increase in intensity that is limited to:
  - two additional hours of operation, but consistent with neighborhood standard if there is one; and
  - 10% more restaurant or classroom seats, equipment, floor area, etc.

In addition, there may be no substantiated violations of the SUP within the prior five years. Only one minor amendment is permitted for any SUP

It is true that the minor amendment provisions were revised and the criteria expanded by the City in December 2008. It is also true that seven minor amendment cases were processed in 2009; none had been processed for several years before that under the prior zoning language. Nevertheless, Staff is recommending a series of changes to these provisions in order to resolve two things. First, it is concerned about the particular hardship of an applicant’s having to return to City Council for approval, after already having been through public hearings for initial SUP approval, and having made a success of its business such that expansion is possible and desirable. Second, since the advent of the administrative SUP program, it has become noticeably unfair not to afford SUP approved uses the ability to take advantage of those features of uses allowed as part of the administrative SUP program. To address these two concerns while recognizing that there will still be difficult cases which should be required to be heard by the Planning Commission and City Council, staff recommends the following changes:

1. Increase expansion to 20%. The language regarding the number of restaurant or classroom seats or the amount of floor area that may be allowed should be changed from 10% to 20% expansion, with the proviso with regard to restaurant seats that the increase may not exceed 12 seats (20% of 60 seats, the existing maximum for an administrative restaurant). If the size criterion for administratively approved restaurants is increased to 100, then the numerical cap would be increased to 20 seats. Parking and building code requirements would still apply and may limit even small expansions.

2. Allow expansion to include features allowed by administrative standards. A restaurant that meets the administrative criteria is allowed to have 60 seats, entertainment, on premise alcohol service, and other standard features considered to have minimal impacts. Staff recommends that a restaurant, even if approved originally by Council, should be able to achieve these same features if they were not part of the original approval, and that the change should be handled administratively. For restaurants already approved by full SUP, expansion would be allowed up to the extent permitted by administrative SUP, including:

- Add seats, up to 60 (or 100 if changed) total seats;
- Add delivery service limited to one vehicle with dedicated parking for restaurants with at least 40 seats;
- Add green (nonvehicular) delivery, with no seat restriction, if delivery is now prohibited;
- Add limited live entertainment, per administrative SUP condition language (no cover charge, background music, limitation on advertising);
- Add on-premises alcohol;
- Add hours up to neighborhood standard assuming there is one, without a limitation of two-hours.

Approval is not automatic. The application will be reviewed to determine whether it meets the minor amendment standards, and will follow the procedures under section 5-511 (C), including notice to civic and business associations, placarding the property and allowing for appeals of the Director's decision to the Planning Commission.

3. Allow more than one administrative change. The current minor amendment provisions limit a business to only one administrative change over its life, without a return trip to City Council. Staff believes that intent in that limitation was only as to increases in intensity under section 11-511(A)(2)(b) regarding the numerical increases permitted. Especially if staff's recommendation is accepted regarding adding features from the administrative standards as minor amendments, then it is important not to create additional restrictions on the ability of an applicant to return for an additional minor amendment. Therefore, staff proposes two things. First, staff has inserted language into section 11-511(A)(2)(b) to indicate that only one change of the type of increases listed there is permitted. In addition, staff recommends the following language change to Section 11-511(A)(2)(d), allowing more than one minor amendment, provided each complies with the criteria for minor amendments:

*The proposed change, when considered in conjunction with all amendments since City Council approval, ~~constitute no more than a single minor amendment~~ does not exceed in the aggregate the limitations prescribed in this section 11-511. as defined by this section and when compared to the original approval.*

Given the clear language of the minor amendment text, including the changes proposed here, even multiple changes will be limited by the proscriptions of the minor amendment criteria. Therefore, there is no reason to cap the amendment process to a one time event.

If the above suggestions had been in place in 2009, some full SUP amendment cases might have been processed administratively, including:

- Café Pizzaiolo at Calvert – asked for limited live entertainment;
- Bistro Lafayette – asked for two additional hours (until 1:00am on Thursdays only) and limited live entertainment; and
- Momo Sushi – asked for increase from 12 to 44 seats.

The above examples and the descriptions of potential changes relate to restaurants because most of the cases processed are restaurant cases. On the other hand, the minor amendment procedure is available for other uses as well. Staff also notes that, while the administrative SUP process itself is not available for uses in Old Town, the minor amendment procedure is applicable there. Certain features of the proposed new language, however, including with regard to restaurant seats, are based on discussions with Old Town Civic Association representatives.

### **8. FAR BONUS FOR DAY CARE CENTER**

Staff is recommending that a new bonus density provision be added to the zoning ordinance to provide for “free” space for day care and early learning centers in newly constructed buildings. The proposal recognizes the great need for additional child care space in the City, with the hope that the economics associated with bonus density will provide an incentive for property owners to provide child care space and to rent the space at subsidized rates. Both the adopted Landmark/Van Dorn Plan and the proposed plan for North Potomac Yard support this mechanism for priority land uses, although in those cases the priority uses identified go beyond early childhood programs to include a broad array of community uses and civic functions.

The provision will apply to new buildings only, and will allow additional floor area to the extent that dedicated space is provided for child care facilities. A maximum of 10,000 square feet of bonus space will be allowed, providing ample size for the largest of the City’s early learning facilities. The new language will appear at section 1-400(B)(3)(f) as follows:

(f) When calculating the floor area of an office, multifamily or mixed use building constructed after [effective date], space devoted to day care facilities and programs offering early childhood education and other related services may be excluded as floor area, provided:

(1) a maximum of 10,000 square feet of floor area may be excluded under this provision;

(2) space for which this floor area exclusion has been allowed shall remain devoted to day care facilities and programs offering early childhood education and other related services unless a special use permit is approved for alternative community facilities or civic function, including public schools; community arts, exhibition or performance space; private education center; neighborhood reading room or library; space for community meetings and functions; or a youth center.

Staff supports this proposal because it addresses the community need for additional child care facilities and begins to implement the City's goals, as reflected in the Landmark/Van Dorn and North Potomac Yard plans. The City looks forward to a significant amount of new development which has yet to be built, and the hope is that the new provision will be an incentive to locate child care facilities in new buildings.

#### **9. ADMINISTRATIVE PARKING REDUCTION FOR SHARED PARKING**

Staff is recommending that a parking reduction be available by administrative SUP in one parking situation that occurs frequently and that the City, through its work on parking in Old Town and Del Ray, supports: shared parking.

The parking required under the zoning ordinance is full, dedicated parking, available to that use 24 hours a day, every day. This approach reflects the traditional manner in which zoning requirements are applied everywhere. However, there is often the opportunity to "share" parking with another use so that the same parking space can be used by more than one user, but at different times of the day and week. For example, a parking lot or garage associated with and dedicated to an office use during the work day and week may be largely vacant in the evenings and on weekends. The recent Old Town Parking Study and the 2005 Mount Vernon Business Area Parking Study discuss this circumstance and recommend that the City find ways to encourage the joint use of such parking. In Old Town there is extensive garage capacity that is not being used and that could be if garage owners and operators could count on sufficient business from increased waterfront or King Street activity. In Del Ray, what limited parking exists near Mount Vernon Avenue is typically associated with offices, and could be made available for the increasing numbers of retail and restaurant patrons.

Staff has often in the past been forced to process a parking reduction SUP for a restaurant or other use in order to permit a shared parking arrangement. Although there were other factors involved, the recent Los Tios application included a parking reduction of this sort. Other examples include Thai Peppers and La Strada. Staff is recommending that where an applicant can justify a parking reduction by showing that parking sufficient to meet the requirement is available *when each business using the parking is operational*, then staff may process that case administratively. Administrative approval of shared parking is already allowed in the NR zone at section 4-1407(B). Staff has included new language in the attached recommended text at Section 8-100 (Attachment 1, p. 34) to implement this recommendation.

#### **10. TEXT CORRECTIONS**

When the small business zoning program was adopted in late 2008, there were a few mistakes and omissions in the text. Staff recommends the following specific changes to correct those mistakes.

Parking for Outdoor Dining. The administrative SUP regulations for outdoor dining allow for up to 20 seats. However, under 6-603(2) and 6-604(B) of the Mount Vernon Overlay Zone (Del Ray), and under 4-1407(B) of the Neighborhood Retail Zone (Arlandria), only 16 seats are

permitted without parking. These sections will be changed for consistency, to allow 20 seats without parking. As a result, Section 11-513(M)(10) becomes redundant and is being deleted. Elsewhere, except in Old Town, full parking is required for outdoor dining.

Day Care and Outdoor Dining in NR Zone. Day care center should be a permitted use in the NR Zone, as is now permitted throughout the remainder of the City. It will be removed from the list of SUP uses and added to the list of permitted uses. Outdoor dining was inadvertently omitted from the list of administrative uses and will be added.

Day Care in KR Zone. Day care was also omitted as a permitted use in the KR zone. It is being added as permitted on the second floor of buildings on King Street.

Use Limitations in the NR Zone. The use limitations applicable in every non residential zone are absent in the NR zone and may have been inadvertently omitted when other changes were made. They will be added back in, including language regarding permitted day care centers.

Health Department Review of Pet Facilities. The administrative standards for pet uses that permit overnight boarding, found at section 11-513 (K) require review by the Health Department. The Health Department no longer reviews such plans; the language requiring it will be deleted.

Minor Amendment and Mount Vernon Avenue Overlay Administrative Standards. The code company that formalizes the City's zoning text amendments inadvertently failed to delete certain old language when it codified the 2008 small business changes to the zoning ordinance. Staff is incorporating here the deletion of sections 5-511(D), (E), (F),(G), as to minor amendments, as those provisions were each updated and incorporated as part of the previous text amendment under section 5-511 (A),(B) and (C). In addition, section 6-607 from the Mount Vernon Avenue Overlay Zone should have been deleted because a more comprehensive set of administrative standards, applicable beyond Mount Vernon Avenue, was adopted at section 11-513. These code mistakes do not change the effect of Council's 2008 legislative action and the undeleted provisions have no force or legal effect.

## ***II. ADDITIONAL SMALL BUSINESS IMPROVEMENTS***

There are a number of additional improvements to assist small business planned to be implemented this year that do not require changes to the text of the zoning ordinance. Many of these issues have and continue to be discussed with Council and the Planning Commission as well as with the community.

- a. *Processing Administrative SUPs:* Staff proposes to eliminate the review by agencies outside of Planning and Zoning as an automatic part of the process for administrative change of ownership cases. P&Z staff will seek assistance from other agencies in unique cases that require it, including for example where there have been documented violations, but it is an unusual case where outside review is necessary. The result is that these cases will be processed more quickly.

- b. *Trees and Trash Fee:* Some members of Council questioned the need for the \$500 trees and trash fee on SUP applicants, given the burden it creates for small businesses. Staff recommends eliminating the SUP requirement as a general rule, but allowing the potential for a trash can requirement for a high-litter generating use, such as a convenience store or fast food restaurant, when no trash can is currently in place on the right of way.
- c. *Additional BAR administrative approvals.* As with the work last year in defining those sign cases in the historic districts that could be approved administratively, staff is working on additional types of cases, especially with regard to replacing roofing materials, windows and siding, that do not require a full hearing before the BAR. Staff is working with the BAR and the community to develop guidelines that will enable administrative approval and make the system more streamlined and the outcomes more certain.

**Staff notes that during the last six months, out of 13 total sign cases that previously would have required BAR approval, 10 have been able to proceed administratively as a result of the legislative changes adopted last October. The administrative sign process reduces the cost of a normal BAR application from \$250 to \$75 and the amount of time required from a minimum of 30 days to two.**

These results are significant and a great aid to small businesses. The proposed guidelines outlining appropriate replacement materials should help both business and residential property owners in the historic districts in a similar manner.

- d. *Simplified Site Plan Process.* Staff is developing a modified, less onerous process for very small building cases that meet the criteria for site plan review. The change will not require a text change, but rather a simplified application process.

Site plan review and approval by the Planning Commission is required for cases where the proposal includes construction of an addition that is more than one-third of the existing building, even if this addition is less than 3000 square feet in size. In these cases, and in other similarly small cases (i.e. where the addition or new building is only marginally larger than 3000 square feet), there will be a simplified checklist of requirements for submissions – much like the checklist currently used for grading plans. The goal is to have applicants submit no more than five to six sheets of drawings per application.

Additionally, staff hopes that in most of these cases the preliminary and final site plans can be combined (based on Section 11-405 of the Zoning Ordinance) which will result in a shorter and less expensive process for the applicant.

- e. *Small Business Guide Update.* This document, produced five years ago, in conjunction with other departments and the Small Business Development Center, is now in the process of being updated. In addition to staff names and contact information changes, sections will be added to highlight the Permit Center, the administrative SUP process and

the BAR administrative permit provisions. The Small Business Guide can be found on the Internet at [alexandriava.gov/planning](http://alexandriava.gov/planning).

- f. *Fee Reduction:* Staff proposes to reduce the fee for the administrative SUP for outdoor display of retail goods, allowed on Mount Vernon Avenue, from \$250 to \$50. This fee is a particularly irksome issue for some small businesses. Staff supports their efforts to adhere to City guidelines and proposes this fee reduction because businesses have cited the fee as a significant obstacle for shop owners who want to participate in the City's permit system. With Council approval, staff will implement the fee reduction immediately.

#### **IV. STAFF RECOMMENDATION**

Staff recommends that the Planning Commission initiate and recommend approval of each of the above zoning text changes.

**Staff:** Faroll Hamer, Director, Planning and Zoning; Barbara Ross, Deputy Director; Nathan Randall, Urban Planner; Mary Christesen, Urban Planner; Kendra Jacobs, Supervisory Administrative Officer.

**Attachments:** Proposed Zoning Text Changes

**SMALL BUSINESS ZONING TEXT AMENDMENT**

**ARTICLE I. GENERAL REGULATIONS**

1-400 Interpretation of ordinance.

(B) *Interpretation of zone regulations.*

(3) Maximum floor area ratio and maximum density shall be calculated as follows:

**STAFF CHANGE APPROVED BY PLANNING COMMISSION.**

(f) When calculating the floor area of an office, multifamily or mixed use building constructed after [effective date], space devoted to day care facilities and programs offering early childhood education, elder care and other related services shall not be calculated as floor area, provided:

(1) a maximum of 10,000 square feet of floor area may be excluded under this provision;

(2) space for which this floor area exclusion has been allowed shall remain devoted to day care facilities and programs offering early childhood education, elder care and other related services unless a special use permit is approved for alternative community facilities or civic functions, including public schools; community arts exhibition or performance space; private education center; neighborhood reading room or library; space for community meetings and functions; or a youth center.

**ARTICLE II: DEFINITIONS**

2-190 Restaurant. A public place where food and beverages are sold to customers in a form suitable for carryout or delivery or for immediate consumption with facilities for consuming such food and beverages available on the premises. This definition shall not be construed to include special events sponsored by an athletic, charitable, civic, educational, fraternal, political or religious organization in a park or other public place, churches, synagogues, fraternal lodges, school cafeterias and dining halls, food vending machines, mobile food units, pushcarts, ball park and sports arena refreshment stands or retail stores.

2-190.1 Restaurant, accessory. A use involving the sale or presentation of food and beverages which is clearly subordinate in area, extent, and purpose to an approved principal use and which is customarily found in connection with and serving that principal use. Typically, an accessory restaurant is not larger than 33% of the floor area of the entire business; does not offer table or delivery service; does not have hours of operation longer than the principal use; and does not have a separate entrance.

2-190.2      **STAFF CHANGE APPROVED BY PLANNING COMMISSION.**  
Restaurant, nightclub. A restaurant where entertainment, live or otherwise, predominates over food service, becoming the principal use for at least during part of the business' operations, with or without dancing, and typically involving a cover or other charge for admission and event advertising.

2-190.3      **STAFF CHANGE APPROVED BY PLANNING COMMISSION.**  
Restaurant, coffee or ice cream shop. A small restaurant, typically no more than two thousand square feet in area, where the principal business is either the sale of coffee and other hot beverages or the sale of ice cream, frozen yogurt or other related confections. Pastries, baked goods, cold beverages, sandwiches and other light fare may also be sold incidental to the service of coffee, and other confections, but no alcohol is served, no entertainment takes place and no significant cooking, other than the application of heat by microwave, electric burner, espresso machine, the heating of soup or the boiling of water, typically takes place.

**ARTICLE IV: COMMERCIAL, OFFICE AND INDUSTRIAL ZONES**

**Sec. 4-100 CL/Commercial low zone.**

**4-102.1**      *Administrative special uses.* The following uses may be allowed in the CL zone with administrative approval, subject to section 11-513 of this ordinance:

- (A) Restaurant;
- (B) Massage establishment;
- ~~(B)~~ (C) Outdoor garden center;
- ~~(C)~~ (D) Outdoor food and crafts market;
- (E) Outdoor dining;
- ~~(D)~~ (F) Overnight pet boarding if located in a shopping center;
- (G) Valet parking.

**4-103**      *Special uses.* The following uses may be allowed in the CL zone pursuant to a special use permit:

- ~~(G.1)~~ Massage establishment;

**Sec. 4-200 CC/Commercial community zone.**

**4-202.1**      *Administrative special uses.* The following uses may be allowed in the CC zone with administrative approval, subject to section 11-513 of this ordinance:

- (A) Restaurant;
- (B) Massage establishment;
- ~~(B)~~ (C) Outdoor garden center;

- ~~(C)~~ (D) Outdoor food and crafts market;
- (E) Outdoor dining;
- ~~(D)~~ (F) Overnight pet boarding if located in a shopping center;
- (G) Valet parking.

**4-203** *Special uses.* The following uses may be allowed in the CC zone pursuant to a special use permit:

- ~~(K.1)~~ ~~Massage establishment~~;

**Sec. 4-300 CSL/Commercial service low zone.**

**4-302.1** *Administrative special uses.* The following uses may be allowed in the CSL zone with administrative approval, subject to section 11-513 of this ordinance:

- (A) Restaurant;
- (B) Massage establishment;
- ~~(B)~~ (C) Outdoor garden center;
- ~~(C)~~ (D) Outdoor food and crafts market;
- (E) Outdoor dining;
- ~~(D)~~ (F) Overnight pet boarding if located in a shopping center;
- (G) Valet parking.

**4-303** *Special uses.* The following uses may be allowed in the CSL zone pursuant to a special use permit:

- ~~(P.1)~~ ~~Massage establishment~~;

**Sec. 4-400 CG/Commercial general zone.**

**4-402.1** *Administrative special uses.* The following uses may be allowed in the CG zone with administrative approval, subject to section 11-513 of this ordinance:

- (A) Restaurant;
- (B) Massage establishment;
- ~~(B)~~ (C) Outdoor garden center;
- ~~(C)~~ (D) Outdoor food and crafts market;
- (E) Outdoor dining;
- ~~(D)~~ (F) Overnight pet boarding if located in a shopping center;
- (G) Valet parking.

**4-403** *Special uses.* The following uses may be allowed in the CG zone pursuant to a special use permit:

- ~~(R.1)~~ ~~Massage establishment~~;

**Sec. 4-500 CD/Commercial downtown zone.**

**4-502.1** *Administrative special uses.* The following uses may be allowed in the CD zone with administrative approval, subject to section 11-513 of this ordinance:

- (A) Restaurant;
- (B) Massage establishment;
- ~~(B)~~ (C) Outdoor garden center;
- ~~(C)~~ (D) Outdoor food and crafts market;
- (E) Outdoor dining (beyond the boundaries of the King Street Outdoor Dining Zone);
- ~~(D)~~ (F) Overnight pet boarding if located in a shopping center;
- (G) Valet parking.

**4-503** *Special uses.* The following uses may be allowed in the CD zone pursuant to a special use permit:

- ~~(O.1) Massage establishment;~~

**Sec. 4-600 CD-X/Commercial downtown zone (Old Town North).**

**4-602.1** *Administrative special uses.* The following uses may be allowed in the CD-X zone with administrative approval, subject to section 11-513 of this ordinance:

- (A) Restaurant;
- (B) Massage establishment;
- ~~(B)~~ (C) Outdoor garden center;
- ~~(C)~~ (D) Outdoor food and crafts market;
- (E) Outdoor dining;
- ~~(D)~~ (F) Overnight pet boarding if located in a shopping center;
- (G) Valet parking.

**4-603** *Special uses.* The following uses may be allowed in the CD-X zone pursuant to a special use permit:

- ~~(N.1) Massage establishment;~~

**Sec. 4-700 CR/Commercial regional zone.**

**4-702.1** *Administrative special uses.* The following uses may be allowed in the CR zone with administrative approval, subject to section 11-513 of this ordinance:

- (A) Restaurant;
- (B) Massage establishment;
- ~~(B)~~ (C) Outdoor garden center;
- ~~(C)~~ (D) Outdoor food and crafts market;

- (E) Outdoor dining;
- ~~(D)~~ (F) Overnight pet boarding if located in a shopping center;
- (G) Valet parking.

**4-703** *Special uses.* The following uses may be allowed in the CR zone pursuant to a special use permit:  
~~(I) Massage establishment.~~

**Sec. 4-800 OC/Office commercial zone.**

**4-802.1** *Administrative special uses.* The following uses may be allowed in the OC zone with administrative approval, subject to section 11-513 of this ordinance:  
(A) Restaurant;  
(B) Massage establishment;  
~~(B)~~ (C) Outdoor garden center;  
~~(C)~~ (D) Outdoor food and crafts market;  
(E) Outdoor dining;  
~~(D)~~ (F) Overnight pet boarding if located in a shopping center;  
(G) Valet parking.

**4-803** *Special uses.* The following uses may be allowed in the OC zone pursuant to a special use permit:  
~~(S.1) Massage establishment;~~

**Sec. 4-900 OCM(50)/Office commercial medium (50) zone.**

**4-902.1** *Administrative special uses.* The following uses may be allowed in the OCM (50) zone with administrative approval, subject to section 11-513 of this ordinance:  
(A) Restaurant;  
(B) Massage establishment;  
~~(B)~~ (C) Outdoor garden center;  
~~(C)~~ (D) Outdoor food and crafts market;  
(E) Outdoor dining;  
~~(D)~~ (F) Overnight pet boarding if located in a shopping center;  
(G) Valet parking.

**4-903** *Special uses.* The following uses may be allowed in the OCM(50) zone pursuant to a special use permit:  
~~(S.1) Massage establishment;~~

**Sec. 4-1000 OCM(100)/Office commercial medium (100) zone.**

**4-1002.1** *Administrative special uses.* The following uses may be allowed in the OCM (100) zone with administrative approval, subject to section 11-513 of this ordinance:

- (A) Restaurant;
- (B) Massage establishment
- ~~(B)~~ (C) Outdoor garden center;
- ~~(C)~~ (D) Outdoor food and crafts market;
- ~~(D)~~ (E) Outdoor dining;
- ~~(E)~~ (F) Overnight pet boarding if located in a shopping center;
- ~~(F)~~ (G) Valet parking;
- ~~(G)~~ (H) Catering operation in an industrial or flex space center;
- and
- (I) Light auto repair in an industrial or flex space center.

**4-1003** *Special uses.* The following uses may be allowed in the OCM(100) zone pursuant to a special use permit:

- ~~(S.1)~~ Massage establishment;

**Sec. 4-1100 OCH/Office commercial high zone.**

**4-1102(E.3)** Health and athletic club located in a shopping center, hotel, industrial or flex space building or office complex.

**4-1102.1** *Administrative special uses.* The following uses may be allowed in the OCH zone with administrative approval, subject to section 11-513 of this ordinance:

- (A) Restaurant;
- (B) Massage establishment
- ~~(B)~~ (C) Outdoor garden center;
- ~~(C)~~ (D) Outdoor food and crafts market;
- ~~(D)~~ (E) Outdoor dining;
- ~~(E)~~ (F) Overnight pet boarding if located in a shopping center;
- ~~(F)~~ (G) Valet parking;
- ~~(G)~~ (H) Catering operation in an industrial or flex space center;
- and
- (I) Light auto repair in an industrial or flex space center.

**4-1103** *Special uses.* The following uses may be allowed in the OCH zone pursuant to a special use permit:

- (L) Health and athletic club other than as a permitted or administrative SUP use pursuant to section 4-1002(E.3);
- ~~(Q.1)~~ Massage establishment;

**Sec. 4-1200 I/Industrial zone.**

- 4-1202**      *Permitted uses.* The following uses are permitted in the I zone:
- (A) Ambulance service;
  - (B) Animal shelter or kennel;
  - (C) Automobile service station;
  - (D) Bottling plant;
  - (E) Building materials storage and sales;
  - (F) Business or professional office ~~office accessory to and on the same site as an industrial use;~~
  - (G) Catering operations;
  - (H) Drive through facility;
  - (I) [*Reserved*];
  - (J) Funeral home;
  - (K) Glass shop;
  - (L) Health and athletic club
  - ~~(L)~~(L.1) Ice and cold storage facility;
  - (M) Laundry, dry cleaning operations;
  - (N) Light assembly and crafts
  - ~~(N)~~(N.1) Light automobile repair;
  - (O) Machine shop;
  - (P) Manufacturing;
  - (Q) Medical laboratory;
  - (Q.1) Motor vehicle parking or storage for 20 vehicles or fewer;
  - (R) Parcel delivery;
  - (S) Personal service establishment
  - ~~(S)~~(S.1) Pet supplies, grooming and training, with no overnight accommodation;
  - (T) Printing and publishing facilities;
  - (U) Radio or television broadcasting office and studio;
  - (V) Research and testing laboratory;
  - (V.1) Restaurant located within a shopping center or hotel;
  - (V.2) Retail;
  - (W) Sheet metal shop;
  - (X) Stone monument works;
  - (Y) Storage buildings and warehouses;
  - (Z) Utilities, as permitted by section 7-1200;
  - (AA) Wholesale businesses;
  - (BB) Accessory uses, as permitted by section 7-100.
- 4-1202.1**      *Administrative special uses.* The following uses may be allowed in the I zone with administrative approval, subject to section 11-513 of this ordinance:
- (A) Restaurant;
  - (B) Massage establishment;

- ~~(B)~~ (C) Outdoor garden center;
- ~~(C)~~ (D) Outdoor food and crafts market;
- (E) Outdoor dining;
- ~~(D)~~ (F) Overnight pet boarding if located in a shopping center;
- (G) Valet parking.

**4-1203**

*Special uses.* The following uses may be allowed in the I zone pursuant to a special use permit:

- (A) Asphalt plant;
- (A.1) Amusement enterprise;
- (B) Automobile and trailer rental or sales area;
- (C) Business offices other than those listed in section 4-1202(F);
- (D) Bus shelter on private property;
- (E) Concrete mixing and batching plant;
- (F) Convenience store;
- (F.1) Day labor agency.
- (G) Freight distribution center;
- (G.1) Fuel yard;
- (H) General automobile repair;
- (I) Helistop;
- (J) Homeless shelter;
- (K) Hospital;
- (L) Interstate bus station;
- (M) Junkyard;
- (N) Medical care facility;
- (O) Motor vehicle parking or storage for more than 20 vehicles;
- (P) Motor vehicle storage yard;
- (P.1) Outdoor food and crafts market, other than pursuant to section 4-1202.2;
- (P.2) Outdoor garden center, other than pursuant to section 4-1202.1;
- (P.3) Overnight pet boarding, other than pursuant to section 4-1202.1;
- (Q) Public building;
- (R) Recycling and materials recovery facility;
- (R.1) Restaurant, other than pursuant to section 4-1202 (V.1) or 4-1202.1;
- (S) Stone crushing operation;
- (T) Vehicle towing service and associated impound lot;
- (U) Waste to energy plant;
- (V) Any other use not listed elsewhere in this ordinance.

**Sec. 4-1400 NR/Neighborhood retail zone (Arlandria).**

**4-1403 Permitted uses.** In order to provide an active pedestrian-oriented retail environment along Mount Vernon Avenue, especially along the sidewalk and pedestrian way, permitted uses in the NR zone are limited as follows.

**(A) Permitted ground floor uses.** The following uses are permitted on the ground floor of buildings facing the sidewalk:

- (1) Retail establishment;
- (2) Personal service, except banks;
- (3) Banks, business and professional offices, medical laboratory or offices and laundromats, provided:
  - (a) The business facade shall be no wider than 30 feet along the street;
  - (b) No more than two such uses or entrances shall adjoin each other.
- (4) Restaurants, when located within a shopping center or hotel, or with administrative approval pursuant to section 4-1403.1;
- (5) Day care center.

**(B) Permitted uses above the ground floor:**

- (1) Uses listed under section 4-1403;
- (2) Dwelling unit;
- (3) Office;
- (4) Church;

**4-1403.1 Administrative special uses.** The following uses may be allowed in the NR zone with administrative approval, subject to section 11-513 of this ordinance:

- (A) Restaurant;
- (B) Outdoor garden center;
- (C) Outdoor food and crafts market;
- (D) Overnight pet boarding located in a shopping center;
- (E) Massage establishment;
- (F) Valet parking;
- (G) Outdoor dining.

**4-1404 Special uses.** The following uses may be allowed with a special use permit:

- ~~(D) Day care center;~~
- ~~(H) Massage establishment;~~

**4-1407 Parking.** The parking requirements of article XIII of the zoning ordinance and with an administrative permit granted by the director of planning and zoning, the following provisions shall apply as to off-street parking:

- (A) In order to maintain the existing supply of private off-street parking spaces, these spaces shall be retained and may be shared until such time as centralized parking facilities are constructed. Such shared arrangements shall be reviewed and approved by the director of planning and zoning;
- (B) Existing restaurants may add up to ~~46~~ 20 outdoor dining seats with no additional off-street parking requirement;

**4-1413**

**Use limitations.**

- (A) All operations, except those administrative uses enumerated in section 14-1103(B), (C) and (G) shall take place within a completely enclosed building except that a permit for the sale and/or display of plants, flowers or produce in conjunction with and on the same lot as an existing permitted use may be granted by the director and the permit shall indicate the location, size, duration and purpose of the accessory outdoor use.
- (B) Appliance sales, repair and rental shall be limited to small appliances only, such as televisions, radios, lawnmowers, kitchen counter and small electronic appliances and like items which do not exceed one horsepower in size.
- (C) No use shall be conducted in any manner which would render it noxious or offensive by reason of dust, refuse matter, odor, smoke, gas fumes, noise, vibration or glare.
- (D) The property owner and occupant shall maintain all building and property appurtenances located within or over the public right-of-way in a safe, clean and attractive fashion, as reasonably determined by the director.
- (E) A day care center, commercial school or massage establishment shall obtain all required state, federal and local licenses and certificates prior to the opening of its place of business.
- (F) A day care center shall provide adequate drop off and pick up facilities so as to create minimal impact on pedestrian and vehicular traffic.

**ARTICLE V. MIXED USE ZONES**

**Sec. 5-100 CRMU-L/Commercial residential mixed use (low).**

**5-102.1**

*Administrative special uses.* The following uses may be allowed in the CRMU-L zone with administrative approval, subject to section 11-513 of this ordinance:

- ~~(D)~~(A) Restaurant;
- (B) Massage establishment;
- ~~(E)~~ (C) Outdoor garden center;
- ~~(F)~~ (D) Outdoor food and crafts market;
- (E) Outdoor dining;
- (G) Valet parking.

**5-103** *Special uses.* The following uses may be approved, pursuant to the procedures and regulations for special use permits and subject to the criteria of section 5-109 below:

- ~~(J.1)~~ ~~Massage establishment~~;

**Sec. 5-200 CRMU-M/Commercial residential mixed use (medium).**

**5-202.1** *Administrative special uses.* The following uses may be allowed in the CRMU-M zone with administrative approval, subject to section 11-513 of this ordinance:

- (A) Restaurant;
- (B) Massage establishment;
- ~~(B)~~ (C) Outdoor garden center;
- ~~(C)~~ (D) Outdoor food and crafts market;
- (E) Outdoor dining;
- (F) Valet parking.

**5-203** *Special uses.* The following uses may be approved, pursuant to the procedures and regulations for special use permits and subject to the criteria of section 5-209 below:

- ~~(J.1)~~ ~~Massage establishment~~;

**Sec. 5-300 CRMU-H/Commercial residential mixed use (high).**

**5-302** *Administrative special uses.* The following uses may be allowed in the CRMU-H zone with administrative approval, subject to section 11-513 of this ordinance:

- (A) Restaurant;
- (B) Massage establishment;
- ~~(B)~~ (C) Outdoor garden center;
- ~~(C)~~ (D) Outdoor food and crafts market;
- (E) Outdoor dining;
- ~~(D)~~ (F) Valet parking

**5-303** *Special uses.* The following uses may be approved, pursuant to the procedures and regulations for special use permits and subject to the criteria of section 5-309 below:

~~(J.1) — Massage establishment;~~

**Sec. 5-400 CRMU-X/Commercial residential mixed use (Old Town North) zone.**

**5-402.1** *Administrative special uses.* The following uses may be allowed in the CRMU-X zone with administrative approval, subject to section 11-513 of this ordinance:

- ~~(D)~~(A) Restaurant;
- (B) Massage establishment;
- ~~(E)~~ (C) Outdoor garden center;
- ~~(F)~~ (D) Outdoor food and crafts market;
- (E) Outdoor dining;
- (G) Valet parking

**ARTICLE VI: SPECIAL AND OVERLAY ZONES**

**Sec. 6-600 Mount Vernon Avenue Urban Overlay Zone**

**6-603** **Uses.**

(D) *Administrative special uses.* Notwithstanding any contrary provisions of the zoning ordinance, the following uses may be allowed by the director by administrative review and approval pursuant to the standards and procedures of section 11-513.

- (1) Restaurants, up to a maximum of 60 seats
- (2) Outdoor dining, ~~up to a maximum of 16 seats~~
- (3) Amusement enterprise, limited to live theater
- (4) Outdoor food and crafts markets
- (5) Neighborhood outdoor garden center, limited to a maximum size of 10,000 square feet
- (6) Outdoor display of retail goods
- (7) Massage establishment
- (8) Valet parking

**6-604** *Parking requirements.* The provisions of article VIII of this ordinance shall apply within the overlay zone the following additions and modifications:

- (A) The requirements of sections 8-200(F)(1) and (2) regarding provision of parking as a result of a change of use, a significant enlargement or a significant alternation shall not apply if the use after the change, enlargement or alteration is a retail establishment.
- (B) Outdoor dining requires no parking for the first ~~16~~ 20 seats.
- (C) Outdoor food and crafts markets shall have no parking requirement, and may, like other permitted temporary uses

approved by the director, occupy areas with required parking spaces for their limited duration.

- (D) For form based development pursuant to section 6-606, parking additions or modifications are provided in that section.

~~6-607 Standards and procedures for administrative approvals.~~

(This entire section of the zoning ordinance was deleted by Ordinance No. 4573, the small business zoning changes approved by Council on December 13, 2008. The company that prepares the city's code failed to delete the provisions in its codification of the changes and will be directed to do it now.)

**Sec. 6-700 KR/King Street Urban Retail Zone**

**6-702** *Uses.* Uses in the King Street urban retail zone are divided into two categories, depending on their location, in order to protect and enhance opportunities for existing and future retail uses. The two use categories, which are each further divided into permitted and special uses, are defined as followed:

(B) *Upper floor uses.*

(1) *Permitted uses:*

- (a) Any use permitted as a ground floor use under section 6-702(A)(1);
- (b) Multifamily dwelling units or accessory apartments;
- (c) Business and professional office;
- (c.1) Day care center
- (d) Medical office;
- (e) Medical laboratory;
- (f) Personal service establishment;
- (g) Radio or television broadcasting office and studio.

(2) *Special uses:*

- (a) Any use allowed as a ground floor special use under section 6-702(A)(2);
- (b) Apartment hotel;
- (c) Catering operation;
- (d) Congregate housing;
- ~~(e) Day care center, day nursery or nursery school;~~
- (f) Home for the elderly;
- (g) Fraternal or private club;
- ~~(g.1) Massage establishment;~~
- (h) Medical care facility;
- (i) Motor vehicle parking or storage;
- (j) Newspaper office, including printing and publishing facilities;

- (k) Private school, commercial or academic;
- (l) Rooming house;
- (m) Social service use;
- (n) Wholesale business.

(C) *Administrative special uses.* Notwithstanding any contrary provisions of this ordinance, the following uses may be allowed by the director by administrative review and approval pursuant to the standards and procedures of section 11-513 of this ordinance:

- (1) Valet parking;
- (2) Massage establishment.

### **VIII: OFF STREET PARKING AND LOADING**

#### **Sec. 8-100 Off-street parking requirement**

(A)

- (6) *Reduction of requirement by administrative special use permit.* An administrative special use permit may be obtained pursuant to section 11-513, where sufficient parking to meet the requirement is available at all times the use is operational, despite the fact that the same parking spaces are used, dedicated or available for other uses at other times.

### **ARTICLE XI: DEVELOPMENT APPROVALS AND PROCEDURES**

#### **Sec. 11-500 Special use permits.**

*11-503 Procedure.*

*11-511 Administrative Amendment to SUP.* The director is authorized to approve the following amendments to special use permits under the following circumstances and procedures.

(A) *Amendments Authorized.*

- (1) *Change in ownership.* Where an application is necessitated solely by a change in ownership of the use, the director may administratively approve such application and transfer the special use permit to the new applicant after determining that there have been no substantiated violations of the special use permit conditions which were not corrected immediately, constitute

material or repeat violations or which created a material and direct adverse impact on the surrounding community.

- (2) *Minor Amendment.* Where an application proposes a change to a City Council approved special use permit which constitutes no more than a minimal enlargement or extension, the director may administratively approve the change after determining that:
- (a) the changes are so insignificant, when the overall use is considered, that they will have little or no zoning impact on the adjacent properties or the neighborhood;
  - (b) the proposal will not change the character of the use or increase its overall intensity, including, without limitation,
    - (i) no more than the following increases which may be permitted only once over the life of the permit:
      - (a) two additional hours of operation, but not to exceed hours consistent with an established neighborhood standard;
      - (b) ~~10%~~ 20% additional restaurant seats, up to a maximum of 12 additional seats;
      - (c) ~~10%~~ 20% additional classroom seats;
      - (d) ~~10%~~ 20% additional equipment;
      - (e) ~~10%~~ 20% additional floor area;
      - (f) similar increases for other aspects of the use; or alternatively,
    - (ii) the proposed change is no greater than what is allowed under the standards for administrative approval for the same use under Section 11-513;
  - (c) there have been no substantiated violations of the special use permit conditions within the last five years;
  - (d) the proposed change when considered in conjunction with all amendments since City Council approval, does not exceed in the aggregate the limitations prescribed under this Section 11-511. ~~constitutes no more than a single minor amendment as defined by Section 11-511 and when compared to the original approval.~~

**AMENDMENT BY PLANNING COMMISSION**

- (e) **the proposed change does not amend or delete conditions that were included to address community concerns.**
- (3) *Special Events.* Notwithstanding any provision of this ordinance to the contrary, the director may approve a temporary extension in the hours of operation of a business subject to an approved special use permit, to coincide with the hours of operation of an event, promotional program or city-sponsored festival in which the business is participating. The procedures required under this section 11-511 shall not apply in such cases.
- (B) *New Conditions.* New conditions or amendments to existing conditions may be added if they are either:
- (a) standard conditions promulgated by the director, approved by City Council and agreed to by the applicant in writing; or
  - (b) such additional conditions as the director finds necessary for the public benefit, in keeping with the use and the special use permit approved therefor, and agreed to by the applicant in writing.
- (C) *Procedure.*
- (1) The Director shall placard the property, cause email notice to the affected civic and business associations and prominently post a list of pending administrative applications on the department web page for review by the public. Such notice shall be given at least 14 days prior to the approval of an amendment under this section.
  - (2) An application for an administrative approval under this section 11-511 which is not approved by the director shall be subject to the same procedural requirements of any other application for a special use permit.
  - (3) The director is authorized to issue regulations governing administrative approvals issued under this section 11-511.
  - (4) The director's decision may be appealed to the planning commission by a person affected by the decision by filing a notice of appeal with the department of planning and zoning within 14 days from the date of the decision appealed; provided, however, that in the case of a restaurant use, the notice of appeal may be filed within 30 days from the date of the decision appealed. The notice shall be a written statement specifying the grounds on which

the appellant is affected and the basis of the appeal. The Planning Commission shall hold a public hearing on the appeal, with notice pursuant to section 11-300 provided, and may affirm, reverse or modify the director’s decision, or vacate the decision and remand the matter to the director for further consideration.

~~(D) In addition to publishing newspaper notice of the proposed changes, the director has notified the planning commission and each docket subscriber under section 11-304, and no person, including a planning commission member, has requested that the proposal be docketed for consideration by the planning commission.~~

~~(E) The changes are so insignificant that they will have little or no zoning impact on the adjacent properties or the neighborhood.~~

~~(F) No new conditions and no amendments to existing conditions are necessary.~~

~~(G) Notwithstanding any provision of this ordinance to the contrary, the director may approve a temporary extension in the hours of operation of a business subject to an approved special use permit, to coincide with the hours of operation of a city sponsored festival, event, or promotional program in which the business is participating.~~

11-513 *Administrative Special Use Permit.* An applicant may seek the director’s approval of a use identified in this ordinance as one for which administrative special use permit approval is available pursuant to the standards and procedures outlined in this section.

(A) Jurisdiction and procedures for administrative approval.

(1) An applicant for an administrative SUP under this section shall file an application with the director on such forms and subject to such procedures as the director may establish for the purpose. The application shall include a statement identifying the applicant as required by section 11-503 of this ordinance.

**AMENDMENT BY PLANNING COMMISSION**

(2) Notice of a pending administrative permit application shall be made in a newspaper of general circulation in the city, posted on the subject property, given to nearby civic and business associations by email, and prominently posted on the department web page in a list of pending administrative applications for review by the public. **Such notice shall be given at least 21 days prior to the approval of an amendment under this section.** The public may submit comments to the director regarding the application. ~~No application may be approved sooner than 21 days from the time notice is given to the public.~~

(3) The application shall be reviewed for compliance with this section 11-513 as well as with applicable provisions of section 11-500.

- (4) As an alternative to an administrative approval, an applicant may choose to seek special use permit approval pursuant to section 11-500 of the zoning ordinance.
- (5) After review the director may approve, approve with conditions, or deny the application. An approval by the director shall be deemed to have the force and effect of a special use permit, under section 11-500, except that provisions of 11-507 shall not apply.
- (6) The director may determine that administrative approval is not appropriate and that special use permit approval shall be required if the proposal will not be compatible with the adjacent and surrounding properties, if the applicant fails to meet the standards for the permit, if the applicant fails to consent to the conditions of the administrative permit or if after consultation with the police department it is determined that there are criminal or nuisance activities or zoning ordinance violations at the proposed location or with the proposed operator.
- (7) In the event any person, whether owner, lessee, principal, agent, employee or otherwise, materially fails to comply with any standard of this section, the director may suspend or revoke the administrative approval in whole or in part and on such terms and conditions as deemed necessary to effect the cure of such failure. The applicant or his successor in interest may appeal this suspension or revocation pursuant to section 11-205(B) et. seq. of this ordinance, except that such appeal shall be heard by the planning commission.

(B) Appeals.

- (1) Any person affected by a decision of the director issued pursuant to section 11-513 (A)(5) may appeal the decision to the planning commission, by filing a notice of appeal, in writing, stating the grounds on which the person is affected and the grounds of appeal, with the director within 14 days of the issuance of the decision; provided, however, that in the case of a restaurant use, the notice of appeal may be filed within 30 days of the issuance of the decision.
- (2) The planning commission shall conduct a public hearing on any appeal filed pursuant to section 11-513(B)(1), notice for which shall be provided in accordance with the applicable provisions of section 11-300 of this ordinance. Following the conclusion of the hearing, the planning commission may affirm, reverse or modify the decision of the director, or vacate the decision and remand the matter to the director for further consideration.

- (3) Any person affected by a decision of the planning commission issued pursuant to section 11-513(B)(2) may appeal the decision to the city council, by filing a notice of appeal, in writing, stating the grounds on which the person is affected and the grounds of appeal, with the city clerk within 5 days of the issuance of the decision.
- (4) The city council shall conduct a public hearing on any appeal filed pursuant to section 11-513(B)(3), notice for which shall be provided in accordance with the applicable provisions of section 11-300 of this ordinance. Following the conclusion of the hearing, the council may affirm, reverse or modify the decision of the commission, or vacate the decision and remand the matter to the planning commission or the director for further consideration.

(C) *General standards for all administrative uses:*

- (1) The administrative 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 11-511 of this ordinance.
- (2) The applicant shall provide information about alternative forms of transportation to access the location of the use, including but not limited to printed and electronic business promotional material, posting on the business website, and other similar methods.
- (3) 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.
- (4) At such time as an organized parking program is adopted by city council to assist with employee or customer parking for the area in which the subject property is located, such as a shared parking program or the Park Alexandria program, the applicant shall participate in the program.
- (5) The applicant shall require its employees who drive to work to use off-street parking.
- (6) 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.
- (7) Trash and garbage shall be stored inside or in sealed containers that do not allow odors to escape or invasion by animals. No trash and debris shall be allowed to accumulate outside of those

- containers. Outdoor trash receptacles shall be screened to the satisfaction of the director.
- (8) The applicant shall contact the crime prevention unit of the Alexandria Police Department for a security survey and robbery awareness program for employees prior to the operation of the business.
  - (9) Litter on the site and on public rights-of-way and spaces adjacent to or within 75 feet of the premises shall be monitored and picked up at least twice during the day and at the close of the business, and more often if necessary, to prevent an unsightly or unsanitary accumulation, on each day that the business is in operation.
  - (10) The use must comply with the City's noise ordinance. No outdoor speakers shall be permitted. No amplified sound shall be audible at the property line.
  - (11) The administrative permit approved by the director pursuant to this section 11-513 shall be displayed in a conspicuous and publicly accessible place. A certificate provided by the city shall inform the public of its right to examine the list of standards associated with the permit. A copy of the list of standards associated with the permit shall be kept on the premises and made available for examination by the public upon request.
  - (12) Improvements may be required to the facade or the front of the business establishment, including landscaping and site improvements, consistent with design guidelines and principles enumerated in the adopted small area plan for the neighborhood, and as determined by the director to be necessary and appropriate to achieve the design and streetscape objectives of that plan.
  - (13) 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 methods to prevent underage sales of alcohol.
  - (14) The director may require conditions additional to those listed in the standards of this section if the director finds it to be reasonable to support the use and its compatibility with surrounding uses and the neighborhood.
  - (15) The request will not significantly and negatively impact nearby residential neighborhoods.
- (D) *Specific standards for day care in a church or school building.*
- (1) The facility shall obtain all required state, federal and local licenses and certificates prior to opening its place of business.
  - (2) The facility shall provide adequate drop off and pick up facilities so as to create minimal impact on pedestrian and vehicular traffic.
  - (3) The facility shall be located on a site so that adequate distance or buffering is provided to protect nearby residential uses from impacts from the use.

- (E) *Specific standards for live theater:*
- (1) The applicant may offer limited wine and beer sales in conjunction with performances at the intermission or one hour before the performances commence, with the appropriate licenses as required by law.
  - (2) The applicant may offer wine and beer in conjunction with a show opening or other wine and cheese event, with the appropriate licenses as required by law. A maximum of one event each month is permitted.
  - (3) The hours of performances shall be limited to 11:00 a.m. to 11:00 p.m. daily.
- (F) *Specific standards for outdoor food and crafts markets:*
- (1) No alcohol sales shall be permitted;
  - (2) No on-site storage of trailers is permitted;
  - (3) No on-site food preparation shall be permitted;
  - (4) The hours of operation shall be limited to 7:00 a.m. to sundown and the market shall be open on those days specified in the approved permit, not to exceed a maximum of two days a week.
  - (5) Market operations shall include:
    - (a) The applicant shall designate one person to serve as the market master, and another person to serve as alternate, and shall provide the names of those persons and their home and work telephone numbers to the director prior to the opening of the market;
    - (b) The market master or his/her designee shall be present prior to the opening of the market and at the closing of the market and shall oversee the cleanup of the lot and adjacent sidewalk areas at the end of the market;
    - (c) The market master shall prepare a plan for the layout of the market for approval by the director prior to beginning operations, and shall obtain approval of the director for any changes to those plans.
    - (d) The market master shall prepare a set of rules for operation of the market for approval by the director who shall review any changes to those rules. Copies of those rules shall be given to each vendor, to nearby residents and businesses, and to the civic associations in the vicinity;
    - (e) The rules shall state who is eligible to sell goods in the market and under what conditions. It is expected that the market shall include the sale of produce, and baked and prepared goods, and that the produce will be predominantly grown by the vendors, except during the spring and late fall when resale produce may predominate;

- (f) The market master shall maintain a list of vendors with addresses and telephone numbers.
  - (6) All vendors shall adhere to, and the market master shall enforce, appropriate food safety guidelines developed by the Alexandria Health Department.
- (G) *Specific standards for outdoor garden center:*
- (1) The site for the outdoor garden center may be no larger than 10,000 square feet.
  - (2) The hours of operation shall be limited to between 7:00 a.m. and 9:00 p.m. Monday through Saturday, and from 8:00 a.m. to 8:00 p.m. on Sunday.
  - (3) A plan showing the layout of the garden center, including areas for storage, on site deliveries, and vehicles; appropriate screening; the design of any building or structure; and the view from Mount Vernon Avenue and neighboring properties shall be submitted for review and approval by the director.
  - (4) Deliveries shall be limited to during normal business hours and shall occur in the location shown in the approved plan.
  - (5) The use shall be located a suitable distance or otherwise protected from nearby residential uses in order to avoid undue impacts.
- (H) *Specific standards for outdoor display.* Notwithstanding any contrary provisions of this ordinance, the display of goods from a retail sales establishment is permitted, subject to the following:
- (1) The requirements of section 4-107(A) shall apply.
  - (2) Only goods from the adjacent store are permitted to be displayed.
  - (3) Signage for the outdoor display is allowed in addition to signage otherwise permitted for the business, but shall be limited to a maximum aggregate size of one square foot.
  - (4) No sales may occur in the outdoor display area.
  - (5) The outdoor display area may include no structures or other permanent changes to the exterior.
  - (6) There shall be no music, speakers, or amplified sounds associated with the outdoor display.
  - (7) The approved duration of the outdoor display shall be specified in the permit which may but is not required to be limited to four times a year.
  - (8) The outdoor sales may not encroach into the public right-of-way.
- (I) *Specific standards for catering operation.*
- (1) The applicant shall post the hours of operation at the entrance of the business.
  - (2) No alcohol service is permitted.
  - (3) No food, beverages, or other material shall be stored outside.

- (4) The applicant shall control cooking odors and smoke from the property to prevent them from becoming a nuisance to neighboring properties, as determined by Transportation & Environmental Services.
- (5) Deliveries to the business are prohibited between 11:00 p.m. and 7:00 a.m.
- (6) 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.
- (7) Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers.

(J) *Specific standards for light automobile repair.*

- (1) Repair work done on the premises shall be limited to light automobile repair.
- (2) No repair work shall be done outside.
- (3) No junked, abandoned, or stripped vehicles shall be parked or stored outside.
- (4) No vehicles shall be loaded or unloaded on the public right-of-way.
- (5) No debris or vehicle parts shall be discarded on the public right-of-way.
- (6) No vehicles shall be displayed, parked, or stored on a public right-of-way.
- (7) No vehicle parts, tires, or other materials shall be permitted to accumulate outside except in a dumpster or other suitable trash receptacle or enclosure.
- (8) The area around the building shall be kept free of debris and maintained in an orderly and clean condition.
- (9) All waste products including but not limited to organic compounds (solvents), motor oils, and antifreeze shall be disposed of in accordance with all local, state and federal ordinances or regulations and shall not be discharged to the sanitary or storm sewers.
- (10) The applicant shall comply with the City of Alexandria Best Management Practices manual for automotive related industries. Contact the T&ES Engineering division (703)383-4327 to obtain a copy of the manual.
- (11) 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.

- (12) Car wash discharges resulting from a commercial operation shall not be discharged into a storm sewer. It is recommended that the car washes be done at a commercial car wash facility.

(K) *Specific standards for overnight pet boarding.*

- (1) The applicant shall comply with the Virginia Department of Agriculture and Consumer Services Division of Animal Industry Services laws and Animal Care, Control, Property and Protection Laws of Virginia regarding Boarding Establishments.
- (2) ~~The applicant shall submit a plan for review and approval to the Health Department that includes proposed methods of ventilation, storage and operations in order to address issues including, without limitation, noise, and waste and odor control.~~

(L) *Specific standards for restaurants.*

- (1) The number of seats at the restaurant may not exceed ~~60~~ 100.
- (2) The restaurant shall offer full service, including printed menus and wait service provided at tables and preset tables with nondisposable tableware, except that this full service requirement does not apply to a coffee or ice cream shop.
- (3) The hours of operation shall be no greater than the prevailing hours of similar uses in the area, but in no event shall the restaurant stay open later than 12:00 midnight or open earlier than 5:00 a.m. Within the Mount Vernon Avenue Overlay zone and the NR zone areas, hours are limited to from 6:00 a.m. to 11:00 p.m., Sunday through Thursday, and from 6:00 a.m. to midnight, Friday and Saturday ~~and Sunday~~, although the closing hour for indoor seating may be extended until midnight four times a year for special events.
- (4) The applicant shall post the hours of operation as well as the location of off street parking at the entrance to the restaurant.
- (5) 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.
- (6) Limited, 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.
- (7) Full service restaurants with a minimum of 40 seats may offer delivery service which shall be limited to one delivery vehicle,

with a dedicated off-street parking space, and shall not be parked on the public right-of-way. No delivery of alcoholic beverages is permitted.

**STAFF CHANGES APPROVED BY PLANNING COMMISSION**

- (8) Full alcohol service, consistent with a valid ABC license is permitted. No off-premise alcohol sales are permitted. Within the West Old Town neighborhood (bounded by Cameron, North West, Wythe and North Columbus Streets), no alcohol shall be served before 11:00 a.m. or after 10:00 p.m. daily. Within the Mount Vernon Avenue Overlay zone, ~~and~~ the NR zone and the West Old town neighborhood areas, alcohol service is limited to table service.
- (9) No food, beverages, or other material shall be stored outside.
- (10) Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers.
- (11) The applicant shall control odors and smoke from the property to prevent them from becoming a nuisance to neighboring properties, as determined by the department of transportation and environmental services.
- (12) Deliveries to the business are prohibited between 11:00 p.m. and 7:00 a.m.
- (13) 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.

(M) *Specific standards for outdoor dining.*

- (1) Outdoor dining shall be accessory to an approved indoor restaurant.
- (2) Outdoor dining, including all its components such as planters, wait stations and barriers, shall not encroach onto the public right of way unless authorized by an encroachment ordinance.
- (3) A maximum of 20 seats may be located at outdoor tables in front of the restaurant. The outdoor seats permitted are in addition to the indoor seats.

**STAFF CHANGES APPROVED AND AMENDED BY PLANNING COMMISSION**

- (4) The hours of operation for the outdoor dining shall be the same as permitted for the indoor restaurant, unless a neighborhood standard has been established with a different time. Within the NR Zone, the Mount Vernon Avenue Urban Overlay Zone and the West Old Town neighborhood areas, outdoor dining shall be closed and

cleared of all customers by 10:00 p.m. **Sunday through Thursday and by 11:00 p.m. on Friday and Saturday.**

- (5) No live entertainment shall be permitted in the outdoor seating area.
- (6) Outdoor seating areas shall not include advertising signage, including on umbrellas.
- (7) On site alcohol service, to the extent allowed for indoor dining, is permitted; no off-premise alcohol sales are permitted.
- (8) A plan shall be submitted with dimensions showing the layout for the outdoor dining area and depicting the design, location, size and space of the dining area, chairs, tables, barriers, umbrellas planters, wait stations, and other components to be located within the area, and such additional information as the Director may reasonably require.
- (9) The outdoor dining area shall be cleared and washed at the close of each business day that it is in use.
- ~~(10) Within the NR zone area, parking is not required for the first 16 outdoor seats.~~
- (11) The provisions of the King Street outdoor dining overlay zone in section 6-800 apply to regulate outdoor dining within the Central Business District.

(N) *Specific standards for valet parking.*

- (1) The applicant shall submit a detailed plan for approval by the director and the director of transportation and environmental services. The plan shall include the following at a minimum:
  - (a) The location of the drop off area as well as the location for the parked vehicles to be stored;
  - (b) The proposed days and hours of operation of the valet parking plan;
  - (c) The number of spaces available at the vehicle storage site, which shall be of sufficient capacity for the use or uses from which vehicles will be valeted;
  - (d) Adequate assurance that the owner and operator of the vehicle storage site is agreeable to the proposed valet plan;
  - (e) The size and design of the drop off site and identification of any on street parking spaces that will be lost during the period that the valet parking plan is in effect, such spaces to be kept to a minimum;
  - (f) Demonstration that the location of the drop off site will not interfere with traffic, remaining parking, bus stops, or transit passengers or pedestrians;
  - (g) The proposed graphics for the drop off site, including signage and uniformed staff, with sufficient visibility but designed to

- be compatible with the streetscape as determined by the director;
- (h) The proposed number of attendants, which shall be sufficient to adequately staff the operation; and
  - (i) If the proposed valet plan includes more than one business, the identity of the party or entity responsible for compliance with the approved valet parking plan.
- (2) No vehicle shall be parked or temporarily stored by an attendant on streets, sidewalks.
  - (3) No structures are permitted in conjunction with a valet parking program, unless associated with a shared parking program among several businesses, and only after the design is reviewed for comment by the Old and Historic Alexandria district board of architectural review.
  - (4) An approved permit for a valet parking operation shall be valid for an initial six month period, after which it shall be reviewed for compliance with these standards and for its effectiveness in handling the drop off, ferrying, parking and retrieving of vehicles efficiently and effectively, and without undue interference with non-valet parking and traffic. If, on review, the directors determine that the valet parking program has operated successfully and in compliance with its permit, then the permit shall be extended indefinitely, with a similar review to occur at the end of each one year period from that point forward. As part of the initial or annual review under this paragraph, the directors may require the operator to adjust the features of the program or, alternatively, to apply for a special use permit if there are concerns about the effectiveness, success or impacts of the valet parking program.
  - (5) The provisions of section 8-300 of this ordinance, requiring an SUP for valet parking, shall not apply for valet parking approved under this section 11-513(M). In addition, a permit approved under this section may authorize valet parking to displace otherwise required parking spaces, notwithstanding the requirements of section 8-200, if it is determined that those spaces are not in demand during the times that the valet parking program will be in effect and that the use of the spaces for the valet parking program will reduce potential parking congestion on the public streets.
- (O) *Application to Certain Development Special Use Permits.* The provisions of this section 11-513 have no application to any CO Planned Residential/Commercial Development and shall not preempt any conditions in any DSUP or CDD Concept Plan adopted prior to or after December 13, 2008, which conditions pertain to the establishment of restaurants and other uses which may be classified as permitted uses or as administrative SUP uses under this section 11-513 and under Ordinance #4573, adopted December 13, 2008, except as provided below:

(1) Cameron Station, DSUP #2004-0026. In the commercial space along Brenman Park Drive, the following uses shall be permitted ~~uses and the provisions of this section 11-513 and Ordinance #4573 are applicable with regard to restaurants, day care centers, private schools, academic or commercial, with a maximum of twenty students on the premises at any one time, and massage establishments and~~ the provisions of this section 11-513(O)(1) shall preempt any conflicting provisions of ~~such~~ DSUP 2004-0026:

- (a) Business professional offices;
- (b) Catering;
- (c) Church;
- (d) Convenience store;
- (e) Day care center;
- (f) Health and athletic club;
- (g) Massage establishment;
- (h) Medical care facility;
- (i) Medical laboratory;
- (j) Medical office;
- (k) Personal service establishments;
- (l) Pet supplies, grooming and training with no overnight accommodations;
- (m) Restaurant; and
- (n) Retail shopping establishments.