

DATE: January 22, 2016

TO: Alex Dambach, Division Chief
Department of Planning and Zoning

FROM: Sara Brandt-Vorel, Planner
Department of Planning and Zoning

SUBJECT: Special Use Permit #2015-0132
Administrative Review for Change of Ownership & Minor Amendment
Site Use: Restaurant
Business Name: The Waterfront Market
Applicant: Alexandria Restaurant Partners, LLC
Location: 101 & 107 N. Union Street
(Parcel Address: 7 King Street)
Zone: KR/King Street Urban Retail Zone
WPR/Waterfront Park and Recreation Zone

Request

Special Use Permit #2015-0132 is a request to change the ownership of an existing restaurant use at 101 & 107 N. Union Street from the Waterfront Market, LLC to Alexandria Restaurant Partners, LLC. Special Use Permit #2015-0132 is also a minor amendment request to increase the hours of operation of the indoor restaurant from 11 p.m. to 12 p.m. Sunday through Thursday. While no other changes are proposed to the operation, the applicant plans to include a full service kitchen to support a more robust menu.

Current Hours

Restaurant

Sunday – Thursday 7 a.m. – 11 p.m.
Friday – Saturday 7 a.m. – 1 a.m.

Outdoor Dining

Sunday – Saturday 7 a.m. – 11 p.m.

Proposed Hours

Restaurant

Sunday – Thursday 7 a.m. – 12 a.m.
Friday – Saturday 7a.m. – 1 a.m.

Outdoor Dining

Sunday – Saturday 7 a.m. – 11 p.m.

Background

City Council approved SUP #2013-0009 in May 2013 to operate a 150-seat restaurant in two retail bays, 101 and 107 N. Union Street with 76 indoor seats, 20 outdoor seats along King Street, and 54 outdoor seats along the Marina. City Council simultaneously approved SUP #2013-0002 which granted approval under Section 9.06 of the City Charter for a change of use for a portion of 107 North Union Street (City Marina) for accessory outdoor dining, permitting 54 outdoor seats. The restaurant use is split-zoned, with the restaurant structure and associated indoor seating zoned KR/King Street Urban Retail Zone, while the outdoor seating granted through Section 9.06 of the City Charter is zoned WPR.

In March 2015, City Council approved SUP #2014-0128 which permitted an increase in indoor and outdoor seating from 150 seats to 222 total seats. The SUP permitted the restaurant to have 135 indoor seats, 67 outdoor seats at the City Marina, and 20 outdoor seats along King Street.

A complaint in June 2014 revealed that delivery vehicles for the restaurant were violating Condition 18 of SUP #2013-0009 by using King Street for unloading instead of the designated Thompson Alley. Inspectors visited the restaurant several times and observed repeat violations resulting in several tickets. During discussions with the restaurant operator alternative loading and unloading spaces for delivery vehicles were identified since Thompsons Alley was difficult to access. As a result of those conversations the Condition was amended through SUP #2014-0128 to allow delivery vehicles to use Fayette Alley instead of Thompson Alley. Since the amendment the applicant has had no violations.

Parking

The restaurant is located in the City's Central Business District (CBD) and according to Section 8-300(B) of the Zoning Ordinance restaurants in the CBD are exempt from parking requirements. Under Condition 16 of SUP #2014-0128 the applicant is required to provide a parking agreement for three off-street parking spaces for employees during business hours.

Community Outreach

Public Notice was provided through eNews, via the City's website, and by posting a placard at the site. In addition, The Old Town Civic Association, Old Town North Community Association, Prince Street Club Condominium Association and the Captains Landing Homeowners Association have been informed of the change of ownership and minor amendment request. Staff has not received any comments from residents or adjacent businesses during the noticing period.

Staff Action

Staff supports the change of ownership and finds the request reasonable. The change of ownership will enable the restaurant to remain a vibrant and integral part of the commercial and economic activity along King Street. The continued operation as a restaurant supports the City's King Street Retail Strategy and the Waterfront Plan by maintaining an active restaurant that serves both residents and visitors.

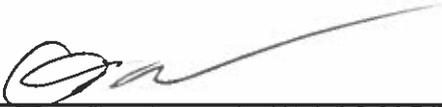
Additionally, staff supports the request to extend the hours of operation for indoor restaurant seating by one hour on Sundays through Thursdays to close at 12 a.m., midnight instead of the previously approved 11 p.m. The proposed timing is comparable to other restaurants in Old Town, especially restaurants within the 100 block of King Street. Staff has carried forward several conditions including conditions regulating hours of operation for outdoor seating, and hours of operation for Fridays and Saturdays.

Staff has amended Condition 6, regulating hours of operation for indoor seating, to reflect the requested Minor Amendment. Condition 14, regulating off-street staff parking and public transportation was deleted and replaced with Conditions 24 and 25. The applicant must provide evidence of current parking agreements during SUP inspections, as stated in Condition 16. Condition 26 was added to require the applicant to provide information about alternative forms of transportation to access the site. All other prior conditions have been carried forward.

Staff hereby approves the Special Use Permit request.

ADMINISTRATIVE ACTION – DEPARTMENT OF PLANNING AND ZONING:

Date: January 22, 2016
Action: Approved



Alex Dambach, Division Chief

- Attachments: 1) Special Use Permit Conditions
2) City Department Comments
3) Statement of Consent

CONDITIONS OF SPECIAL USE PERMIT #2015-0132

The owner is responsible for ensuring that the following conditions are adhered to at all times. Violation of any of the conditions may result in fines and/or referral by the Director to public hearing by the Planning Commission and City Council.

1. The Special Use Permit shall be granted to the applicant only or to any corporation in which the applicant has a controlling interest. (P&Z)(SUP #2014-0128)
2. The maximum number of total seats at the restaurant shall be 222 seats, which include seasonal outdoor dining. The number of indoor seats shall not exceed 135 seats. Up to 67 outdoor seats may be provided on the Marina in the designated area through the previously approved license agreement between the applicant and the City provided minimum aisle clearance requirements are met. Additionally, up to twenty (20) outdoor seating along King Street may be provided on the premises subject to approval by the Director of Planning and Zoning through the King Street Outdoor Dining Program (P&Z) (SUP #2014-0128)
3. The applicant shall utilize Fayette Alley as a loading and unloading area located off North Union Street for supply deliveries. Loading and unloading may not occur and is strictly prohibited on King Street and on Union Street. Supply deliveries, loading, and unloading activities shall not occur between the hours of 11 p.m. and 7 a.m. (P&Z)(T&ES) (SUP #2014-0128)
4. Trash and garbage shall be placed in sealed containers maintained in the Torpedo Factory Office Building/Food Court Complex loading and unloading dock area off Thompsons Alley or in the City dumpster located across Union Street. The trash shall be sealed appropriately and stored in the contained dumpster which do not allow odors to escape and shall be stored inside or in closed containers which do not allow invasion by animals. No trash or debris shall be allowed to accumulate on site outside of those containers. (P&Z) (SUP #2014-0128)
5. The applicant shall post the hours of operation at the entrance of the business. (P&Z)(SUP #2013-0009)
6. **CONDITION AMENDED BY STAFF:** For indoor seats, meals ordered before ~~11:00 pm~~ 12 a.m. Sunday – Thursday and before 1a.m. Friday – Saturday, may be sold, but no new alcohol may be served and no new patrons may be admitted after ~~11:00 pm~~ 12 a.m. Sunday – Thursday and after 1 a.m. Friday – Saturday. All patrons must leave by 1 a.m. Sunday – Thursday and by 2 a.m. on Friday – Saturday. (P&Z) (~~SUP #2013-0009~~)
7. The hours of operation for outdoor seats shall be limited to between 7 a.m. and 11 p.m., 7 days a week. The outdoor dining area shall be closed and cleared of all customers by 11 p.m. The outdoor seating area shall not include advertising signage, including on umbrellas.(P&Z)(SUP #2013-0009)

8. No live entertainment shall be permitted either inside the restaurant or in any outdoor dining area. (P&Z) (SUP #2013-0009)
9. No customer delivery service shall be available from the restaurant. (P&Z)(SUP #2013-0009)
10. On and off-premises alcohol sales may be offered at the restaurant. (P&Z) (SUP #2013-0009)
11. Beer or wine coolers may be sold for off-premises consumption only in 4-packs, 6-packs or bottles of more than 40 fluid ounces. Wine may be sold only in bottles of at least 750 ml or 25.4 ounces. Fortified wine (wine with an alcohol content of 14% or more by volume) may not be sold. (P&Z) (Police) (SUP #2013-0009)
12. All loudspeakers shall be prohibited from the exterior of the building, and no amplified sounds shall be audible at the property line. (P&Z)(T&ES) (SUP #2013-0009)
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 on how to prevent underage sales of alcohol. (P&Z) (SUP #2013-0009)
14. **CONDITION DELETED BY STAFF ANDD REPLACED WITH CONDITIONS 24 AND 25:** ~~The applicant shall require its employees who drive to use off street parking and/or provide employees who use mass transit with subsidized bus and rail fare media. The applicant shall also post DASH and Metrobus schedules on-site for employees.~~ (P&Z)(T&ES) (SUP #2013-0009)
15. The applicant shall direct patrons to the availability of parking at nearby public garages and shall participate in any organized program to assist with both employee and customer parking for businesses that is formed as a result of suggested parking strategies in the King Street Retail Strategy. (T&ES) (SUP #2013-0009)
16. **CONDITION AMENDED BY STAFF:** The applicant shall maintain an up-to-date parking agreement for three (3) off-street parking spaces for employees during business hours to the satisfaction of the Directors of Planning and Zoning and Transportation and Environmental Services. Evidence of the parking agreement shall be provided during the SUP inspection. (T&ES) (SUP #2013-0009)
17. **CONDITION AMENDED BY STAFF:** Kitchen equipment, including floor mats, shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers. (T&ES) (SUP #2013-0009)
18. All waste products including but not limited to organic compounds (solvents), shall be disposed of in accordance with all local, state and federal ordinances or regulations. (T&ES) (SUP #2013-0009)

19. The applicant shall control cooking odors, smoke and any other air pollution from operations at the site and prevent them from becoming a nuisance to neighboring properties, as determined by the Department of Transportation & Environmental Services. (T&ES) (SUP #2013-0009)
20. 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. (T&ES) (SUP #2013-0009)
21. The applicant shall provide a menu or list of foods to be handled at this facility to the Health Department prior to opening. (Health) (SUP #2013-0009)
22. No food, beverages, or other material shall be stored outside. (P&Z) (SUP #2013-0009)
23. **CONDITION AMENDED BY STAFF:** The Director of Planning and Zoning shall review the special use permit after it has been operational for one year, and shall docket the matter for consideration by the Planning Commission and City Council if (a) there have been documented violations of the permit conditions which were not corrected immediately, constitute repeat violations or which create a direct and immediate adverse zoning impact on the surrounding community; (b) the Director has received a request from any person to docket the permit for review as the result of a complaint that rises to the level of a violation of the permit conditions, or (c) the Director has determined that there are problems with the operation of the use and that new or revised conditions are needed. (P&Z) (~~SUP #2013-0009~~)
24. **CONDITION ADDED BY STAFF:** The applicant shall require its employees who drive to use off-street parking (T&ES)
25. **CONDITION ADDED BY STAFF:** The applicant shall encourage their employees to use public transit to travel to and from work. Within 60 days of City Council or administrative approval, the business shall contact Local Motion at 703-746-4686 for information on establishing an employee transportation benefits program. (T&ES)
26. **CONDITION ADDED BY STAFF:** The applicant shall provide information about alternative forms of transportation to access the site, including but not limited to printed and electronic business promotional material, posting on the business website, and other similar methods. Contact Local Motion at 703-746-4686 or www.alexandriava.gov/LocalMotion for more information about available resources. (T&ES)

CITY DEPARTMENT COMMENTS

Legend C – code requirement R – recommendation S – suggestion F - finding

Transportation & Environmental Services

Current Conditions from SUP #2014-0128

3. The applicant shall utilize Fayette Alley as a loading and unloading area located off North Union Street for supply deliveries. Loading and unloading may not occur and is strictly prohibited on King Street and on Union Street. Supply deliveries, loading, and unloading activities shall not occur between the hours of 11:00 pm and 7:00 am. (P&Z)(T&ES)
12. All loudspeakers shall be prohibited from the exterior of the building, and no amplified sounds shall be audible at the property line. (P&Z)(T&ES) (SUP2013- 0009)
14. ~~**CONDITION DELETED BY STAFF:** The applicant shall require its employees who drive to use off-street parking and/or provide employees who use mass transit with subsidized bus and rail fare media. The applicant shall also post DASH and Metrobus schedules on-site for employees. (P&Z)(T&ES) (SUP2013-0009)~~
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19. The applicant shall control cooking odors, smoke and any other air pollution from operations at the site and prevent them from becoming a nuisance to neighboring properties, as determined by the Department of Transportation & Environmental Services. (T&ES) (SUP2013-0009)

20. 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. (T&ES) (SUP2013-0009)

New Conditions:

- R-1 **CONDITION ADDED BY STAFF:** The applicant shall require its employees who drive to use off-street parking. (T&ES)
- R-2 **CONDITION ADDED BY STAFF:** The applicant shall encourage their employees to use public transit to travel to and from work. Within 60 days of City Council or administrative approval, the business shall contact the Local Motion at 703-746-4686 for information on establishing an employee transportation benefits program. (T&ES)
- R-3 **CONDITION ADDED BY STAFF:** The applicant shall provide information about alternative forms of transportation to access the site, including but not limited to printed and electronic business promotional material, posting on the business website, and other similar methods. Contact Local Motion at 703-746-4686 or www.alexandriava.gov/LocalMotion for more information about available resources

City Code Requirements:

- C-1 The applicant shall comply with the City of Alexandria's Noise Control Code, Title 11, Chapter 5, which sets the maximum permissible noise level as measured at the property line. (T&ES) (SUP2004-00081)
- C-2 The applicant shall comply with the City of Alexandria's Solid Waste Control, Title 5, Chapter 1, which sets forth the requirements for the recycling of materials (Sec. 5-1-99). In order to comply with this code requirement, the applicant shall provide a completed Recycling Implementation Plan (RIP) Form within 60 days of City Council approval. Contact the City's Recycling Program Coordinator at (703) 746-4410, or via e-mail at commercialrecycling@alexandriava.gov, for information about completing this form. (T&ES) (SUP2014-00128)

Health

- C-1 An Alexandria Health Department Permit is required for all regulated facilities. A permit shall be obtained prior to operation, and is not transferable between one individual, corporation or location to another. Permit application and fee are required.
- C-2 Construction plans shall be submitted to the Health Department located at 4480 King Street and through the Multi-Agency Permit Center. Plans shall be submitted and

approved by the Health Department prior to construction. There is a \$200.00 plan review fee payable to the City of Alexandria.

- C-3 Construction plans shall comply with Alexandria City Code, Title 11, Chapter 2, The Food Safety Code of the City of Alexandria. Plans shall include a menu of food items to be offered for service at the facility and specification sheets for all equipment used in the facility, including the hot water heater.
- C-4 A Food Protection Manager shall be on-duty during all operating hours.
- C-5 The facility shall comply with the Virginia Indoor Clean Air Act and the Code of Alexandria, Title 11, Chapter 10, Smoking Prohibitions.
- C-6 In many cases, original wooden floors, ceilings and wall structures in historical structures may not be suitable for food service facilities. Wood materials shall be finished in a manner that is smooth, durable, easily-cleanable, and non-absorbent.
- C-7 Facilities engaging in the following processes may be required to submit a HACCP plan and/or obtain a variance: Smoking as a form of food preservation; curing/drying food; using food additives to render food not potentially-hazardous; vacuum packing, cook-chill, or sous-vide; operating a molluscan shellfish life-support system; sprouting seeds or beans; and fermenting foods.

Fire

- C-8 New owner is required to file for a new fire prevention permit.

Police

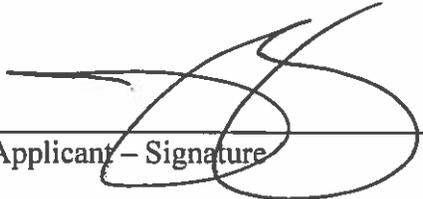
No comments received.

Recreation, Parks, and Cultural Activities

No comments received.

STATEMENT OF CONSENT

The undersigned hereby agrees and consents to the attached conditions of this Special Use Permit #2015-0132. The undersigned also hereby agrees to obtain all applicable licenses and permits required for a restaurant use at 101 & 107 N. Union Street.



Applicant – Signature

9 March 16

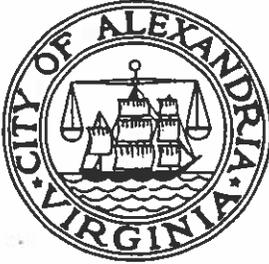
Date

John P. Menos

Applicant – Printed

9 March 16

Date



City of Alexandria, Virginia
Department of Planning & Zoning

SPECIAL USE PERMIT CERTIFICATE

Article XI, Division A, Section 11-510 of the 1992 Zoning Ordinance of the City of Alexandria, Virginia requires that you display this Special Use Permit in a conspicuous and publicly accessible place. A copy of the list of conditions associated with the Special Use Permit shall be kept on the premises and made available for examination by the public upon request.

Special Use Permit #2015-0132
Approved by Planning and Zoning: January 22, 2016
Permission is hereby granted to: Alexandria Restaurant Partners, LLC
to use the premises located at: 101 & 107 N. Union Street
for the following purpose: see attached report

It is the responsibility of the Special Use Permit holder to adhere to the conditions approved by City Council. The Department of Planning and Zoning will periodically inspect the property to identify compliance with the approved conditions. If any condition is in violation, the permit holder will be cited and issued a ticket. The first violation carries a monetary fine. Continued violations will cause staff to docket the special use permit for review by City Council for possible revocation.

1/22/16

Date

KARL MORITZ / AD
Karl Moritz, Director
Department of Planning and Zoning