

DATE: December 2, 2022

TO: Tony LaColla, Division Chief, Land Use Services
Department of Planning and Zoning

FROM: Mavis Stanfield, Planner
Department of Planning and Zoning

SUBJECT: Special Use Permit #2022-00098
Administrative Review for Change of Ownership
Site Use: Restaurant
Applicant: Hyndford Hospitality LLC
Location: 101 N. Union Street
Zone: KR/King Street Retail

Request

Special Use Permit #2022-0098 is a request to change ownership of an existing restaurant from New Blue Zen VA, Inc. to Hyndford Hospitality LLC, with “B Flats” as a trade name. While the previous business sold frozen yogurt, the new owner will serve sandwiches, with dine-in and carry-out service, 14 indoor seats and operating hours of 9 a.m. to 10 p.m. daily.

Background

The restaurant will be located in a three-story office and commercial building located at 101 N. Union Street which was constructed in 1986. Retail tenants are located on the bottom floor facing an arcade that provides pedestrian access between the corner of King and Union Streets and the waterfront. Office uses are located immediately above the first-floor retail.

On March 1, 2011, City Council approved Special Use Permit #2010-0088 to allow a restaurant, which at that time consisted of a frozen yogurt shop, to operate at the subject property. The previous tenant was a retail art gallery.

On March 16, 2018 Special Use Permit #2018-0011 was approved administratively to change the ownership of the existing restaurant from Blue Zen VA, Inc. to New Blue Zen VA, Inc. No changes to the operations were proposed. The business would continue to serve frozen yogurt along with related confections, coffee and other drinks with dine in and carry-out service, 15 indoor seats and operating hours of 10 a.m. to 11 p.m. daily.

Parking

The subject property is located within the Central Business District (CBD). According to Section 8-300 (B) of the Zoning Ordinance, restaurants located within the CBD are not subject to standard parking requirements.

Community Outreach

Public notice was provided through eNews, via the City's website, and by posting a placard on the site. In addition, Old Town Civic Association was sent a written notification of the current application. Staff has not received any comments from residents or adjacent businesses.

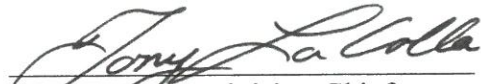
Staff Action

Staff does not object to the change of ownership request. Staff finds the change of ownership request to be reasonable as the previous business had only two minor complaints, related to posting hours of operation and signage, that were quickly resolved. There were no other negative impacts from the previous owner and the new applicant proposes no significant changes to the current business operations, other than the type of food that is served, or SUP conditions. Staff has carried over conditions from SUP #2018-0011 and conditions have been amended and added to reflect current condition language. Staff has deleted Condition #2 (hours of operation) and #20 (menu to Health Department) and updated a number of conditions, such as Conditions #3 (numbers of indoor seats), #5 (live entertainment), #7 (alcohol sales) and #14 (employee parking) to reflect current regulations. Staff has also added Condition #25 (exterior power washing), Condition #26 (disposal of waste) and Condition #27 (information about nearby parking garages).

Staff hereby approves the Special Use Permit request.

ADMINISTRATIVE ACTION - DEPARTMENT OF PLANNING AND ZONING:

Date: December 2, 2022
Action: Approved


Tony LaColla, Division Chief

Attachments: 1) Special Use Permit Conditions
2) Statement of Consent

CONDITIONS OF SPECIAL USE PERMIT #2022-00098

The new 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 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) (SUP2010-0088)
2. **CONDITION DELETED BY STAFF:** ~~The hours of operation of the restaurant shall be limited to between 10:00am and 11:00pm seven days/week. (P&Z) (SUP2010-0088)~~
3. **CONDITION AMENDED BY STAFF:** The maximum number of indoor seats at the restaurant shall ~~be 15~~ comply with the state building code. Additional outdoor seating 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) (SUP2010-0088)
4. The applicant shall post the hours of operation at the entrance of the business. (P&Z) (SUP2010-0088)
5. **CONDITION AMENDED BY STAFF:** ~~No live entertainment shall be permitted either inside the restaurant or in any future outdoor dining area. Indoor limited, live entertainment may be offered and must comply with the City's noise ordinance. No admission or cover fee shall be charged. All entertainment shall be subordinate to the principal function of the restaurant as an eating establishment. Any advertising of the entertainment shall reflect the subordinate nature of the entertainment by featuring food service as well as the entertainment. (P&Z) (SUP2010-0088)~~
6. No delivery service shall be available from the restaurant. (P&Z) (SUP2010-0088)
7. **CONDITION AMENDED BY STAFF:** ~~No alcohol service shall be permitted at the restaurant.~~ On and off premises alcohol sales are permitted in compliance with Virginia ABC requirements. (P&Z) (SUP2010-0088)
8. **CONDITION AMENDED BY STAFF:** ~~Meals ordered before the closing hour may be sold, but no new patrons may be admitted and no alcoholic beverages may be served after the closing hour and a~~ All patrons must leave by one hour after the closing hour. (P&Z) (SUP2010-0088)
9. 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) (SUP2010-0088)
10. No food, beverages, or other material shall be stored outside with the exception of materials specified in other conditions. (P&Z) (SUP2010-0088)(SUP 2018-0011)

11. **CONDITION AMENDED BY STAFF:** Trash and garbage shall be placed in sealed containers which do not allow odors to escape and shall be stored inside or in closed containers which do not allow invasion by animals or leaking. No trash or debris shall be allowed to accumulate on site outside of those containers. Outdoor containers shall be maintained to the satisfaction of the Directors of Planning & Zoning and Transportation & Environmental Services, including replacing damaged lids and repairing/replacing damaged dumpsters. (P&Z) (SUP2010-0088)
12. **CONDITION AMENDED BY STAFF:** ~~All loudspeakers shall be prohibited from the exterior of the building, and~~ No amplified sounds shall be audible at the property line. (P&Z) (T&ES) (SUP2010-0088)
13. The applicant shall require its employees who drive to use off-street parking. (PC) (P&Z)(T&ES) (SUP2010-0088)(SUP 2018-0011)
14. **CONDITION AMENDED BY STAFF:** ~~The applicant 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.~~ The applicant shall contact the T&ES parking planner at 703.746.4025 for information about applying to participate in the Discount Parking Program for Employees of Old Town Businesses (or other similar program if one is created) that offers discounted parking at select City parking facilities on evenings and weekends. (T&ES) (SUP2010-0088)
15. 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) (SUP2010-0088) (SUP 2018-0011)
16. **CONDITION AMENDED BY STAFF:** The applicant shall control cooking odors, smoke and any other air pollution from operations at the site and prevent them leaving the property or from becoming a nuisance to neighboring properties, as determined by the Department of Transportation & Environmental Services. (T&ES) (SUP2010-0088)
17. Supply deliveries, loading, and unloading activities shall not occur between the hours of 11:00pm and 7:00am. (T&ES) (SUP2010-0088)
18. Litter on the site and on public rights-of-way and spaces adjacent to or within 75 feet of the premises shall be picked up at least twice a day and at the close of business, and more often if necessary, to prevent an unsightly or unsanitary accumulation, on each day that the business is open to the public. (T&ES) (SUP2010-0088)
19. **CONDITION DELETED BY STAFF** (SUP 2018-0011)
20. **CONDITION DELETED BY STAFF:** ~~The applicant shall provide a menu or list of foods to be handled at this facility to the Health Department prior to opening.~~ (Health) (SUP2010-0088)

21. **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) ~~(SUP2010-0088) (SUP2018-0011)~~
22. 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 Go Alex at goalex@alexandriava.gov for more information about available resources. (P&Z)
23. All windows shall remain transparent. The placement or construction of items that block the visibility through windows of the interior of the commercial space from the street and sidewalk, including but not limited to walls, window film, storage cabinets, carts, shelving, boxes, coat racks, storage bins, and closets, shall be prohibited. This is not intended to prevent retailers from displaying their goods in display cases that are oriented towards the street frontage. (P&Z)
24. The applicant shall encourage its employees to use public transportation to travel to and from work. The business shall contact Go Alex at goalex@alexandriava.gov for information on establishing an employee transportation benefits program. (P&Z)
25. **CONDITION ADDED BY STAFF:** Exterior power washing of the building shall not be completed using any kind of detergents. (P&Z)
26. **CONDITION ADDED BY STAFF:** All waste products including but not limited to organic compounds (solvents), shall be disposed of in accordance with all local, state and federal ordinances or regulations. (P&Z)
27. **CONDITION ADDED BY STAFF:** The applicant shall encourage patrons to park off-street through the provision of information about nearby garages or lots in the business' advertising and website. (P&Z)

STATEMENT OF CONSENT

The undersigned hereby agrees and consents to the attached conditions of this Special Use Permit #2022-0098. The undersigned also hereby agrees to obtain all applicable licenses and permits required for the restaurant at 101 North Union Street.



Applicant - Signature

1-4-23

Date



Applicant - Printed

1-4-23

Date