DATE: August 26, 2013

TO: Karl Moritz, Deputy Director
Department of Planning and Zoning

FROM: Nathan Randall, Planner
Department of Planning and Zoning

SUBJECT: Special Use Permit #2013-0034
Administrative Review for Change of Ownership
Site Use: Restaurant
Applicant: Sheela Perera
Location: 3807 Mount Vernon Avenue
Zone: CDD #6 / Coordinated Development District #6

Request

Special Use Permit #2013-0034 is a request to change of ownership of an existing restaurant on the ground level of a two-story commercial building at 3807 Mount Vernon Avenue. The change of ownership request will transfer the SUP from Nirun Vongpukkean to Sheela Perera. The applicant plans to change the restaurant format from Thai cuisine to Asian fusion and plans to operate under the name of "Shakthi."

Background

City Council first approved an SUP for a restaurant at this site in 1991 (SUP#2505). Staff administratively approved a change of ownership in 1995, and City Council approved an extension of the closing hour of the restaurant in 1996. Most recently, City Council approved SUP#97-0193 in April 1998 to increase seating and to allow outdoor seating at the business. Aside from two signage complaints over 10 years ago, and one Code-related complaint about the condition of the parking lot in 2006, staff has not received any complaints about the existing business since it opened in 1997.

Parking

Section 8-200(A)(8) of the Zoning Ordinance requires one off-street parking space for every four restaurant seats. The Zoning Ordinance exempts the first 20 outdoor dining seats in the NR/Arlandria zone. The subject restaurant, with 44 indoor seats and up to eight outdoor seats, is therefore required to provide a total of 11 off-street parking spaces. (The NR zone regulations apply within CDD#6.) The applicant partially satisfies this requirement with a total of six off-street parking spaces on-site and will be required in Condition #16 to provide the balance of its parking requirement by leasing off-site parking.

Community Outreach

Public notice was provided through eNews, via the City's website, and by posting a placard on the site. Arlandria Civic Association was notified through eNews. In addition, the Lenox Place at Sunnyside Homeowners and Sunnyside/Lenox Place Neighborhood

Associations were sent 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 applicant's proposal. It finds that the request to change ownership of the business is reasonable. New or amended conditions have been included in this report for consistency with modern standard condition language regarding matters such as odors, employee training, and the one-year staff-level review. A new prohibition on delivery service has been added to this report (Condition #23) since that feature was not included in the prior SUP approval.

The provision of parking has been closely reviewed as part of this Special Use Permit request. The applicant was asked to find off-street parking consistent with the requirement in Condition #16 and recently was able to find five off-street parking spaces at Saint Rita's Church. However, the total of 11 off-street parking spaces (six on-site plus five off-site) now available to the applicant does not meet the Zoning Ordinance requirement for 62 indoor seats.

Staff has therefore amended existing Conditions #2 and #16 to better reflect the new seating and parking arrangements for the business. First, it is clear from the previous staff report that the applicant's need to provide two of the 12 additional off-street parking spaces stems from the presence of eight outdoor dining seats which no longer require off-street parking. Therefore the maximum number of additional off-site parking spaces the applicant would need to provide based on 62 indoor seats is now 10. Second, staff has clarified in the condition language that the applicant does not need to provide the entire off-site parking requirement of 10 spaces if it does not have the full 62 seats inside the restaurant. Finally, staff has reduced the number of seats allowed at the restaurant but has included a provision in which the Director can, without the need for the applicant to apply for a new Special Use Permit, increase the number of seats back up to 62 if the applicant is able to secure sufficient parking for those additional seats in the future.

Staff hereby approves the Special Use Permit request.

ADMINISTRATIVE ACTION - DEPARTMENT OF PLANNING AND ZONING:

Date: Approved
Action: August 26, 2013

_____
Karl Moritz, Deputy Director

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

CONDITIONS OF SPECIAL USE PERMIT #2013-0034

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)(SUP 2502)

2. **CONDITION AMENDED BY STAFF:** The maximum number of indoor seats at the restaurant shall not exceed 44 and the maximum number of outdoor seats at the restaurant shall not exceed eight. The applicant may obtain approval from the Director of Planning & Zoning for up to 18 additional indoor seats if additional parking is provided consistent with Zoning Ordinance requirements. ~~Seating shall be provided inside the restaurant for no more than 62 patrons.~~ (P&Z) ~~(SUP#97-0193)~~

3. Outside dining facilities are permitted consistent with applicant's plan and located only on private property. (P&Z) (SUP#97-0193)

4. **CONDITION AMENDED BY STAFF:** The hours during which the business is open to the public shall be restricted to between 10:00 A.M. and 11:30 P.M., Sunday through Thursday, and between 10:00 A.M. to 1:00 A.M. Friday and Saturday, as requested by the applicant. For indoor patrons, meals ordered before 11:30 p.m. Sunday-Thursday or before 1 a.m. Friday and Saturday may be served, but no new patrons may be admitted and no alcohol may be served, and all patrons must leave by 12:30 a.m. Sunday-Thursday and 2 a.m. Friday and Saturday. (P&Z) (PC) ~~(SUP-95-0187)~~

5. **CONDITION AMENDED BY STAFF:** The hours of outdoor seating shall be limited to 10:00 A.M. to 9:00 P.M., daily. Outdoor seating shall be cleared of patrons by 9:00 P.M. and the area shall be cleaned and washed ~~before 10:00 P.M.~~ at the end of each day that it is in use. Outdoor dining areas shall not include advertising signage, including on umbrellas. (P&Z) ~~(SUP#97-0193)~~

6. **CONDITION AMENDED BY STAFF:** All loudspeakers are prohibited on the outside of the building and no amplified sound shall be audible past the property line. No music is permitted outside. (P&Z) ~~(SUP#97-0193)~~

7. The applicant shall post the hours of operation at the entrance to the restaurant.

(P&Z) (SUP#97-0193)

8. No live entertainment shall be provided at the restaurant. (P&Z) (SUP#97-0193)

9. No food, beverages, or other material shall be stored outside. (P&Z) (SUP 2502)

10. Trash and garbage shall be stored inside or in a dumpster. (P&Z) (SUP 2502)

11. Litter on the site and on the public rights-of-way and spaces adjacent to or within 75 feet of the premises shall be picked up at least twice a day, or more often if necessary, to prevent an unsightly and unsanitary accumulation, on each day that the business is open to the public. (P&Z)

12. Trash and garbage shall be placed in sealed containers which do not allow odors to escape and shall be stored inside or in a closed container which does not allow invasion by animals. No trash or debris shall be allowed to accumulate on site outside of those containers. (P&Z)

13. **CONDITION AMENDED BY STAFF:** Any dumpster installed on the property shall be screened to the satisfaction of the Director of Planning and ~~Community Development~~ Zoning. (P&Z) (PC) ~~(SUP 2502)~~

14. **CONDITION AMENDED BY STAFF:** The applicant shall ~~repair~~ maintain the concrete driveway and parking lot to the satisfaction of the Director of Transportation and Environmental Services. (T&ES) (P&Z) ~~(SUP 2502)~~

15. **CONDITION AMENDED BY STAFF:** On-premises alcohol service may be offered but no alcoholic beverages shall be offered for off-site consumption. (PC) (P&Z) ~~(SUP 2502)~~

16. **CONDITION AMENDED BY STAFF:** Commensurate with 62 indoor seats, the applicant shall provide an additional ~~12 off-site~~ 10 off-street parking spaces within 500 feet of the restaurant. Alternatively, if the applicant provides less than 62 seats in the restaurant, the applicant may provide a lower number of off-street parking spaces commensurate with Zoning Ordinance parking requirements. The applicant shall submit an up-to-date written contract to the Director for all off-site parking within 30 days of SUP approval and upon any change to the off-site parking arrangement. (P&Z) ~~(SUP#97-0193)~~

17. The applicant shall post signs in the restaurant directing patrons to the availability of off-site parking. (P&Z) (SUP#97-0193)

18. Kitchen equipment shall not be cleaned outside, nor shall any cooking residues be

washed into the streets, alleys or storm sewers. (T&ES) (SUP#97-0193)

19. **CONDITION AMENDED BY STAFF:** The applicant shall contact the ~~Crime Prevention~~ Community Relations Unit of the Alexandria Police Department for a security survey for the business and a robbery awareness program for employees. (Police) ~~(SUP#97-0193)~~

20. **CONDITION DELETED BY STAFF (See Condition #28):** ~~The Director of Planning and Zoning shall review the special use permit one year after approval and shall docket the matter for consideration by the Planning Commission and City Council if (a) there have been documented violations of the permit conditions, (b) the director has received a request from any person to docket the permit for review, or (c) the director has determined that there are problems with the operation of the use and that new or revised conditions are needed. (P&Z) (SUP#97-0193)~~

21. **CONDITION ADDED BY STAFF:** Any improvements to the front of the building, including signage, shall be reviewed for consistency with the Arlandria Small Area Plan as determined by the Director of Planning & Zoning. (P&Z)

22. **CONDITION ADDED BY STAFF:** 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. (P&Z)

23. **CONDITION ADDED BY STAFF:** No delivery service shall operate from the restaurant. (P&Z)

24. **CONDITION ADDED 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)

25. **CONDITION ADDED BY STAFF:** The applicant shall control cooking odors, smoke and any other air pollution from operations at the site and prevent them from leaving the property or becoming a nuisance to neighboring properties, as determined by the Department of Transportation & Environmental Services. (T&ES)

26. **CONDITION ADDED BY STAFF:** Supply deliveries, loading, and unloading activities shall not occur between the hours of 11:00pm and 7:00am. (T&ES)

27. **CONDITION ADDED 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)

STATEMENT OF CONSENT

The undersigned hereby agrees and consents to the attached conditions of this Special Use Permit #2013-0034. The undersigned also hereby agrees to obtain all applicable licenses and permits required for the restaurant at 3807 Mount Vernon Avenue.

_____ _____
Applicant - Signature Date

_____ _____
Applicant – Printed Date