

DATE: August 8, 2014

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

FROM: Nathan Randall, Planner
Department of Planning and Zoning

SUBJECT: Special Use Permit #2014-0060
Administrative Review for Change of Ownership
and Minor Amendment
Site Use: Restaurant
Applicant: Mackie's Bar & Grill LLC
Location: 907 King Street
Zone: KR / King Street Retail

Request

Special Use Permit #2014-0060 is a request to change ownership of an existing restaurant from Mathil Chebat to Mackie's Bar & Grill LLC. The applicant has also requested a minor amendment to extend the weeknight closing hour from 11 p.m. to 1 a.m. The weekend closing hour (Friday and Saturday nights) would remain at 1 a.m. and no other changes to the existing SUP conditions are proposed. The applicant plans to serve American cuisine with an emphasis on steaks and operate under the trade name of "Mackie's."

Background

A restaurant has existed at the site since approximately 1987 when City Council granted SUP#2000. City Council subsequently granted two changes of ownership, one of which also included an extension of the hours of operation. On October 15, 2005, the City Council granted SUP#2005-0087 to Lek's Family Inc. to further extend the hours of operation. In June 2006, staff determined that no change of ownership was required when the same individual owning Lek's Family Inc. changed the corporate name of the business to David and Kim, Inc. Most recently, staff administratively approved SUP#2010-0032 to change ownership of the business to Mathil Chebat.

In 2010, Mathil Chebat was issued a notice of violation for allowing live entertainment in the form of disc jockeys at the restaurant. The applicant agreed to no longer provide any kind of live entertainment at the site.

Parking

The subject property is located within the Central Business District (CBD). Restaurants located within the CBD are exempt from parking requirements pursuant to Section 8-300(B) of the Zoning Ordinance.

Community Outreach

Public notice was provided through eNews, via the City’s website, and by posting a placard on the site. In addition, an email with information about the request was sent to the Old Town Civic and King Henry Court Civic Associations. Staff has not received any comments from the public regarding this request.

Staff Action

Staff views the change of ownership as a reasonable request but notes that it cannot approve the entirety of the applicant’s minor amendment request to extend the closing hour to 1 a.m. Sunday-Thursday. Pursuant to Section 11-511(A)(2)(b)(i)(a) of the Zoning Ordinance, an increase in the hours of operation of up to two hours is eligible for minor amendment approval, but only if the increase does not exceed the neighborhood standard closing hour. In Old Town, the neighborhood standard closing hour is 12 midnight during the week and therefore the requested 1 a.m. weeknight closing hour would exceed the neighborhood standard. Instead, staff has approved an increase of one hour, from 11 p.m. to 12 midnight Sunday-Thursday, which is the maximum closing hour it can approve administratively.

At the time of the most recent full-hearing request for this restaurant site in 2005, a prior owner represented to Planning Commission and City Council that no deliveries of food to customers would occur here but that the restaurant would offer limited live entertainment in the form of a solo guitarist. Staff has therefore memorialized this representation in new conditions prohibiting food deliveries to customers (Condition #19) and formally allowing limited live entertainment (Condition #18). In addition to including standard “limited” live entertainment language, staff has added that only a solo guitarist, pianist or similar musician would be allowed to clarify that other forms of entertainment such as DJs would not be allowed. Staff has also amended or added other conditions of approval in this report for consistency with today’s standards regarding matters such as alcohol, trash storage, and supply deliveries.

Staff hereby approves the Special Use Permit.

ADMINISTRATIVE ACTION - DEPARTMENT OF PLANNING AND ZONING:

Date: 8/8/2014
Action: Approved

Alex Dambach, Division Chief

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

CONDITIONS OF SPECIAL USE PERMIT #2014-0060

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#2000B)
2. Seating shall be provided inside for no more than 70 patrons. (P&Z)(SUP#2000B)
3. Condition deleted by staff. (P&Z)
4. No food, beverages, or other material shall be stored outside. (P&Z) (SUP#2000B)
5. **CONDITION AMENDED BY STAFF:** ~~Trash and garbage shall be stored inside or in a dumpster.~~ Trash and garbage shall be stored inside or in sealed containers that do not allow odors to escape or invasion by animals. Trash and debris shall be collected frequently and shall not be allowed to accumulate outside of those containers. Outdoor trash receptacles shall be screened to the satisfaction of the director. (P&Z) (T&ES) (SUP #2000)
6. **CONDITION DELETED BY STAFF:** ~~Trash and garbage shall be collected daily when the business is open.~~ (P&Z) (SUP #2000)
7. CONDITION SATISFIED AND DELETED (SUP#2014-0060)
8. Litter on the site and on public rights-of-way and spaces adjacent to or within 75 feet of the premises be picked up at least twice a day and at the close of business, and more often if necessary, to prevent an unsightly and unsanitary accumulation, on each day that the business is open to the public. (P&Z) (T&ES) (SUP#2010-0032)
9. **CONDITION AMENDED BY STAFF:** The hours during which the business is open to the public shall be restricted to the following: 7:00 A.M. to ~~11:00 P.M.~~ 12 midnight Sunday through Thursday and 7:00 A.M. to 1:00 A.M.- Friday and Saturday. (P&Z) (SUP#2005-0087)
10. The applicant shall post the hours of operation at the entrance of the business. (P&Z) (SUP#2005-0087)
11. Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers. (T&ES)(SUP#2005-0087)

12. The applicant shall control cooking odors, smoke and any other air pollution from operations at the site and prevent them from leaving the property or becoming a nuisance to neighboring properties, as determined by the Department of Transportation & Environmental Services. (T&ES) (SUP#2005-0087)
13. **CONDITION AMENDED BY STAFF:** Loudspeakers shall be prohibited from the exterior of the building, and no amplified sounds shall be audible at the property line. The use must comply with the city's noise ordinance. (T&ES) (~~SUP#2005-0087~~)
14. **CONDITION AMENDED 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 post DASH and Metrobus schedules on-site for employees. 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. (P&Z) ~~The applicant shall encourage its employees 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.~~ (P&Z) (~~SUP#2005-0087~~)
15. 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#2005-0087)
16. **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, 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#2005-0087~~)
17. **CONDITION ADDED BY STAFF:** On-premises alcohol service may be offered but no off-premises alcohol sales shall be allowed. (P&Z)
18. **CONDITION ADDED BY STAFF:** Limited live entertainment may be permitted inside the restaurant in the form of a solo guitarist, pianist or similar musician as background music for restaurant patrons. 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)
19. **CONDITION ADDED BY STAFF:** No delivery of food to customers shall be offered at the restaurant. (P&Z)
 20. **CONDITION ADDED BY STAFF:** All waste products including but not limited to organic compounds (solvents), shall be disposed of in accordance with all local, state and federal ordinances or regulations. (T&ES)
 21. **CONDITION ADDED BY STAFF:** Supply deliveries, loading, and unloading activities shall not occur between the hours of 11:00pm and 7:00am. (T&ES)
 22. **CONDITION ADDED BY STAFF:** The applicant shall contact the Community Relations Unit of the Alexandria Police Department at 703-746-6838 regarding a security survey for the business and robbery readiness training for all employees. (P&Z)

CITY DEPARTMENT COMMENTS

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

Transportation & Environmental Services:

From Section 11-513(C) of the Zoning Ordinance:

R-1 *General standards for all administrative uses:*

(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.

(5) The applicant shall require its employees who drive to work to use off-street 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.

(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.

R-2 Zoning Ordinance Section 11-513 (L):

1. Kitchen equipment, including floor mats, shall not be cleaned outside, nor shall any cooking residue or wash water be washed into the streets, alleys or storm sewers. (T&ES)
2. All waste products including but not limited to organic compounds (solvents), shall be disposed of in accordance with all local, state and federal ordinances or regulations. (T&ES)

3. 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)
 4. Supply deliveries, loading, and unloading activities shall not occur between the hours of 11:00pm and 7:00am. (T&ES)
- C-1 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)
- C-2 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)

Code Enforcement:

F-1 No comments received

Health Department:

F-1 No comments received

Parks and Recreation

F-1 No comments received

Police Department

F-1 No comments received

Fire Department

C-1 Due to change in ownership, a new fire prevention permit will be required for this occupancy condition – Assembly.

STATEMENT OF CONSENT

The undersigned hereby agrees and consents to the attached conditions of this Special Use Permit #2014-0060. The undersigned also hereby agrees to obtain all applicable licenses and permits required for the restaurant at 907 King Street.

Applicant - Signature

Date

Applicant – Printed

Date