

DATE: October 29, 2015

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

FROM: Ann Horowitz, Planner  
Department of Planning and Zoning

SUBJECT: Special Use Permit #2015-0089  
Administrative Special Use Permit for New Use  
Site Use: Restaurant  
Business Name: Portner Brewhouse  
Applicant: Portner Brewhouse, LLC  
Location: 5770 Dow Avenue  
(parcel address: 650 South Van Dorn Street)  
Zone: CDD#17

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### **Request**

Special Use Permit #2015-0089 is a request to operate a full-service restaurant, Portner Brewhouse, in an approximately 4,000 square foot tenant space at the Modera Tempo mixed-use complex. The proposed business would offer classic German and contemporary American cuisine as well as craft beers that are produced at the on-site, accessory brewery. The applicant proposes 156 indoor seats and 20 outdoor seats. The hours of operation would be between 11 a.m. and 11 p.m., Monday through Thursday; 11 a.m. and 12 a.m., Friday and Saturday, and 10 a.m. to 11 p.m. on Sunday. On-premises alcohol would be served. Live entertainment or food delivery service would not be offered.

### **Background**

City Council approved DSUP#2011-0030 in January 2012 for the construction of the three-building Modera Tempo (Landmark Gateway) mixed-use complex. A parking reduction and TMP SUP were also approved as part of the project. The subject tenant space is one of at least five ground-level tenant spaces which are limited to retail, personal service, and restaurant uses.

### **Parking**

DSUP approval for Modera Tempo included 53 off-street parking spaces designated for all commercial uses at the site. The applicant satisfies this parking requirement with its pro-rated share of the surface parking spaces located on interior streets within the complex and around the interior plaza. Although not officially counted toward the number of spaces provided by the applicant, 11 new on-street spaces were also created along South Pickett Street in connection with the Modera Tempo redevelopment.

### **Community Outreach**

Public notice was provided through eNews, via the City's website, and by posting a placard at the site. In addition, the Alexandria Knolls West Condominium Association, the Highpointe Condominium Association, The Loft Condominium Association, and the Cameron Station Civic

Association were notified. Staff has received comments of support from members of the Cameron Station Civic Association.

**Staff Action**

Staff supports the SUP request for Portner Brewhouse at the Modera Tempo Building. The new restaurant would fulfill the DSUP requirement for the location of a retail use on the ground floor. The business would occupy a visible, corner vacancy and would expand the full service restaurant options in the neighborhood.

Standard conditions regarding hours of operation, employee parking, litter removal, and odor abatement are included in this report.

Staff hereby approves the Special Use Permit request.

**ADMINISTRATIVE ACTION – DEPARTMENT OF PLANNING AND ZONING:**

Date: October 29, 2015  
Action: Approved



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Alex Dambach, Division Chief

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

**CONDITIONS OF SPECIAL USE PERMIT #2015-0089**

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 business or entity in which the applicant has a controlling interest. (P&Z)
2. The maximum number of indoor seats at the restaurant shall be 156 contingent on consistency with the Building Code and pursuant to DSUP2011-0030, Condition #8a. The maximum number of outdoor seats at the restaurant shall be 20. (P&Z)
3. The hours of operation for the indoor portion of the restaurant shall be limited to between 11 a.m. and 11 p.m., Monday through Thursday; 11 a.m. and 12 a.m., Friday and Saturday, and 10 a.m. to 11 p.m. on Sunday. For indoor seating, meals ordered before 11 p.m., Sunday to Thursday may be sold, but no new restaurant patrons may be admitted after 11 p.m. and all patrons must leave by 12 a.m. For indoor seating, meals ordered before 12 a.m., Friday and Saturday may be sold, but no new restaurant patrons may be admitted after 12 a.m. and all patrons must leave by 1 a.m. The outdoor dining area shall be cleared of customers by 11 p.m., Sunday through Thursday and by 12 a.m., Friday and Saturday. The outdoor dining area shall be washed at the close of each business day that it is in use. (P&Z)
4. The applicant shall post the hours of operation at the entrance of the business. (P&Z)
5. 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. (P&Z) (T&ES)
6. Outdoor seating areas shall not include advertising signage, including on umbrellas. (P&Z)
7. On-premises alcohol service shall be permitted at the restaurant. (P&Z)
8. No live entertainment shall be allowed in the indoor or outdoor seating areas of the restaurant. (P&Z) (T&ES)
9. No delivery service of food to customers shall operate from the restaurant. (P&Z)
10. All signage at the site shall comply with Condition #46 and #47 of DSUP#2011-0030 and all other applicable codes and ordinances. (P&Z)
11. 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)

12. No food, beverages, or other material shall be stored outside. (P&Z)
13. 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 and debris shall be allowed to accumulate on-site outside of those containers. (P&Z) (T&ES)
14. 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. (T&ES)
15. 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. (T&ES)
16. 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. (T&ES)
17. The applicant shall require its employees who drive to work to use off-street parking. (T&ES)
18. 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. (T&ES)
19. 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)
20. 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. (T&ES)
21. 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. (T&ES)
22. Supply deliveries, loading, and unloading activities shall not occur between the hours of 10:00pm and 7:00am. Deliveries are prohibited on South Van Dorn and South Pickett Streets. (T&ES)
23. 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)

24. 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)
25. 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)

CITY DEPARTMENT COMMENTS

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

Transportation & Environmental Services

- R-1 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.
- R-2 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.
- R-3 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.
- R-4 The applicant shall require its employees who drive to work to use off-street parking.
- R-5 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.
- R-6 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.
- R-7 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.
- R-8 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-9 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.
- R-10 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.

- R-11 No live entertainment shall be permitted in the outdoor seating area.
- R-12 Supply deliveries, loading, and unloading activities shall not occur between the hours of 10:00pm and 7:00am. Deliveries are prohibited on South Van Dorn and South Pickett Streets. (T&ES)
- R-13 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)
- R-14 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)
- F-1 The building footprint is outside of the floodplain boundary. As such, this project is not subject to the floodplain regulations found in the ordinance. However, it is advised that project owners/operators become aware of the risks associated with the location of existing floodplains and it is recommended that project owners/operators located in known flood zones make improvements that protect the property from flood related damages. (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](mailto:commercialrecycling@alexandriava.gov), for information about completing this form. (T&ES)

#### Code Administration

- F-1 The following comments are for SUP only. Once the applicant has filed for a building permit and additional information has been provided, code requirements will be based upon the building permit plans and the additional information submitted. If there are any questions, the applicant may contact Charles Cooper, Plan Review Division at [Charles.cooper@alexandriava.gov](mailto:Charles.cooper@alexandriava.gov) or 703-746-4197.
- C-1 An outdoor dining permit and inspection is required.
- C-2 New construction must comply with the current edition of the Uniform Statewide Building Code (USBC) and the Virginia rehabilitation code.

#### Fire

- C-1 A fire prevention permit is required for this use and occupancy condition.

Health

*Food Facilities*

- C-1 An Alexandria Health Department Permit is required for all regulated facilities (this includes the brewery portion of your restaurant). 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 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 packaging, cook-chill, or sous-vide; operating a molluscan shellfish life-support system; sprouting seeds or beans; and fermenting foods.

Parks & Recreation

- F-1 No comments received

Police

- No comments received

STATEMENT OF CONSENT

The undersigned hereby agrees and consents to the attached conditions of this Special Use Permit #2015-0089. The undersigned also hereby agrees to obtain all applicable licenses and permits required for a restaurant use at 5770 Dow Avenue.

Catherine Portner  
Applicant - Signature

10/30/15  
Date

Catherine Portner  
Applicant - Printed

10/30/15  
Date

