

DATE: May 11, 2015

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

FROM: Ann Horowitz, Planner
Department of Planning and Zoning

SUBJECT: Special Use Permit #2015-0042
Administrative Review for Change of Ownership
Site Use: Second Level Restaurant and Delivery Service
Business Name: Buggy's Restaurant
Applicant: BJW Inc. by Bartolome Paz
Location: 111 King Street
Zone: KR/King Street Retail

Request

Special Use Permit #2015-0042 is a request to change the ownership for a portion of a restaurant and for delivery service at 111 King Street from BJW Inc. by Brian Watson to BJW Inc. by Bartolome Paz. The proposal relates to the second floor level of the restaurant while the first floor is a grandfathered restaurant. The applicant also proposes to maintain a delivery service with five vehicles. No other changes are proposed and the restaurant will continue to operate as Buggy's Restaurant.

Background

Several restaurants have continuously operated at the first floor of 111 King Street since the occupancy of the Maison de Crepes restaurant in 1973. The use is, therefore, considered a grandfathered restaurant with 105 permitted seats on that floor. City Council approved SUP#1615 in 1983 allowing the expansion of Armand's Chicago Pizzeria on the second floor with 61 seats. In 1990, five delivery vehicles were permitted for this restaurant following City Council approval of SUP#2411. The restaurant name was later changed to Buggy's.

In 2012, a zoning inspection revealed that outdoor furniture and a railing encroached on the public right of way. The business owner abated the condition.

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, the Old Town Business and Professional Association, Cameron Mews Homeowners Association, and the Prince Street Club Condominiums have been informed of the change of ownership. Staff has not received any public comments.

Staff Action

Staff supports the change of ownership request which affects only the second level of the restaurant, which has a grandfathered first floor, and the delivery service. The continued operation of these elements of the established restaurant contributes to the business's success and to the vitality of lower King Street.

The SUP conditions from SUP#1615 and SUP#2411 have been merged in this report to incorporate both uses into one SUP document. All have been amended to either reflect modern-day condition language or have been deleted if they are no longer relevant. The applicant is limited to parking two delivery vehicles for no longer than 30 minutes in Fayette Alley behind the restaurant and the three remaining delivery vehicles must park in off-street parking areas, as amended in Condition 9. Further, the report has been updated with the addition of several standard conditions that include litter abatement, control of cooking odors, and employee parking in off-street locations, as stated in Conditions 16 through 27.

Staff hereby approves the Special Use Permit request.

ADMINISTRATIVE ACTION – DEPARTMENT OF PLANNING AND ZONING:

Date: May 11, 2015
Action: Approved

Alex Dambach, Division Chief

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

CONDITIONS OF SPECIAL USE PERMIT #2015-0042

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. **CONDITION AMENDED BY STAFF:** ~~That the~~ Special Use Permit shall be granted to the applicant only or to any corporation in which the applicant has a controlling interest. (P&CD) (SUP#1615 and SUP#2411) (P&Z)
2. **CONDITION AMENDED BY STAFF:** ~~That the~~ hours during which the business is open to the public of operation for the second floor restaurant shall be restricted limited to between 11:30 a.m. and 11:30 p.m., Sunday through Thursday and from 11:30 a.m. to 1:30 a.m., Friday and Saturday. Orders placed before 11:30 p.m., Sunday through Thursday, and before 1:30 a.m., Friday and Saturday, may be served, but no new patrons may be admitted and all patrons must leave by 12:30 a.m. and 2:30 a.m., respectively. (P&CD) (SUP#1615) (P&Z)
3. **CONDITION AMENDED BY STAFF:** ~~That the~~ hours during which the delivery service occurs be restricted to the following, and as requested by the applicant: is available shall be limited to between 11:30 a.m. to 2:00 p.m., seven (7) days a week daily; 5:00 p.m. to 10:00 p.m., Sunday through Thursday; and 5:00 p.m. to Mmidnight, Friday and Saturday. (P&CD) (SUP#2411) (P&Z)
4. **CONDITION AMENDED BY STAFF:** ~~That seating be provided~~ The maximum number of seats on the second floor for no more than shall be 61 patrons. (P&CD) (SUP#1615) (P&Z)
5. **CONDITION DELETED BY STAFF:** ~~That no outside facilities be located on the premises. (P&CD) (SUP#1615)~~
6. **CONDITION AMENDED BY STAFF:** ~~That n~~ No food, beverages, or other material shall be stored outside. (P&CD) (SUP#1615) (SUP#2411) (P&Z)
7. **CONDITION AMENDED BY STAFF:** ~~That t~~ Trash and garbage shall be stored inside or in a dumpster 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. No trash or debris shall be allowed to accumulate on site outside of those containers. (P&CD) (SUP#1615) (SUP#2411) (P&Z)
8. **CONDITION AMENDED BY STAFF:** ~~That n~~ No more than five (5) delivery vehicles shall be permitted. (P&CD) (SUP#2411) (P&Z)

9. **CONDITION AMENDED BY STAFF:** ~~That~~ No more than two delivery vehicles shall not be permitted to park or stand longer than 30 minutes along Fayette Alley at any one time. The remaining delivery vehicles in service must use off-street parking. (P&CD)-(SUP#2411)-(P&Z)
10. **CONDITION AMENDED BY STAFF:** ~~That d~~ Delivery vehicles shall not speed at any time along Fayette Alley. (P&CD)-(SUP#2411)-(P&Z)
11. **CONDITION AMENDED BY STAFF:** ~~That d~~ Drivers in delivery vehicles shall not play radios audible outside their cars. (P&CD)-(SUP#2411)-(P&Z)
12. **CONDITION DELETED BY STAFF:** ~~That the applicant not guarantee delivery within 30 minutes. (P&CD)-(SUP#2411)~~
13. **CONDITION DELETED AND REPLACED BY CONDITION 27:** ~~That the permit be reviewed be reviewed one (1) year from the date of approval of the special use permit. (P&CD)-(SUP#2411)~~
14. **CONDITION AMENDED BY STAFF:** ~~That t~~ Trash and garbage shall be collected daily when the business is open. (P&CD)-(SUP#1615)-(SUP#2411)-(P&Z)
15. **CONDITION DELETED BY STAFF:** ~~That the applicant totally sprinkle the building for fire protection (P&CD)-(SUP#1615)-(P&Z)~~
16. **CONDITION ADDED BY STAFF:** The applicant shall post the hours of operation at the entrance of the business. (P&Z)
17. **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 and on how to prevent underage sales of alcohol to prevent the underage sale of alcohol. (P&Z)
18. **CONDITION ADDED BY STAFF:** Loading and unloading shall be conducted in the rear of the building and not along King Street. (P&Z)
19. **CONDITION ADDED BY STAFF:** 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. (P&Z)
20. **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. (P&Z)

21. **CONDITION ADDED BY STAFF:** All waste products including but not limited to organic compounds (solvents and cleaners) shall be disposed of in accordance with all local, state and federal ordinances or regulations. (P&Z)
22. **CONDITION ADDED BY STAFF:** Supply deliveries, loading, and unloading activities shall not occur between the hours of 11:00pm and 7:00am. (P&Z)
23. **CONDITION ADDED 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)
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 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)
26. **CONDITION ADDED BY STAFF:** 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. (P&Z)
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 #2015-0042. The undersigned also hereby agrees to obtain all applicable licenses and permits required for the massage establishment at 111 King Street.

Applicant – Signature

Date

Applicant – Printed

Date