

DATE: June 17, 2013

TO: Joanna Anderson, Acting Deputy Director
Department of Planning and Zoning

FROM: Nathan Randall, Planner
Department of Planning and Zoning

SUBJECT: Special Use Permit #2013-0032
Administrative Review for Change of Ownership
Site Use: Restaurant
Applicant: PTO BBQ, LLC by Michael Anderson
t/a Sweet Fire Donna's
Location: 510 John Carlyle Street
(Parcel Address: 520 John Carlyle Street)
Zone: CDD #1 / Coordinated Development District #1

Request

Special Use Permit #2013-0032 is a request to change ownership of an existing restaurant on the ground level of the Carlyle Square Condominium building from Jerry's Systems, Inc. to PTO BBQ, LLC by Michael Anderson. The applicant expects to operate a fast-casual barbeque restaurant with a small bar area, which represents a change in concept compared to the prior restaurant at the site. The applicant expects to operate the business under the trade name "Sweet Fire Donna's." No other changes are proposed.

Background

The Carlyle Master Plan was first approved by SUP in 1990, and has been amended several times since then, most recently in April 2012 (SUP#2012-0006). Staff administratively approved DSP#2001-0033 for the construction of the subject building, also known as Carlyle Block L, in 2001. Most recently, in January 2007, City Council granted SUP#2006-0098 to Jerry's Systems, Inc. for the operation of a Jerry's Subs and Pizza franchise. Jerry's closed in March of this year.

Staff received one complaint about Jerry's in 2009 regarding the use of a neon restaurant sign, in violation of the Carlyle Design Guidelines, and the placement of restaurant signage in a tree. Both matters, which do not represent technical violations of the SUP conditions, were corrected. City staff was involved in a significant noise-related enforcement initiative in 2009 and 2010 at the former Zikrayet Restaurant, which had also been located in nearby tenant space in this building until it moved to Eisenhower Avenue in 2012.

The applicant currently operates Pork Barrel Barbeque restaurant at 2312 Mount Vernon Avenue in Del Ray, which was approved by SUP in 2010 and opened in 2011.

Community Outreach

Public notice was provided through eNews, via the City's website, and by posting a placard on the site. Staff also informed the Carlyle Square, Carlyle Towers, and Royalton Condominium Associations about the current application. Staff has received written comments from the Carlyle Square Condominium Association President, explaining residents' reaction to the restaurant proposal at a recent community meeting. She noted that residents appeared not to object to the request overall, and were generally supportive of the addition of a restaurant in this location offering the quality of food proposed by the applicant. Residents also expressed concern about the potential for noise problems given their experience at Zikrayet. Questions regarding signage and barbeque smoke/odors were also raised in the meeting. Staff also received an anonymous message through its "Call.Click.Connect" system in which a condominium resident requested an earlier closing hour than the existing 12 midnight and prohibitions on alcohol at the restaurant and smoking in the outdoor dining area.

The matters raised by the community are largely addressed through the applicant's existing plans or with new or amended condition language and do not necessitate docketing the request for public hearing.

Staff Action

Staff does not object to the applicant's proposal and believes that the change of ownership is reasonable. Although the business concept will change from fast-food pizza and subs to fast-casual barbeque, the new restaurant will be consistent with the seats, hours, and other terms approved in the prior SUP. The locally-owned restaurant proposed in this application will replace a chain fast-food establishment, which could potentially enhance the uniqueness of the Carlyle neighborhood.

The potential that odors coming from the barbeque cooker could become a nuisance to nearby residents was the dominant community concern at the time of the applicant's 2010 SUP request for Pork Barrel Barbeque. Staff has discussed with the applicant his plans to ensure that no exceptional odors will be present at this new location. It has determined that he plans to install here both the cooking and odor control equipment present at Pork Barrel. The new cooker will use natural gas as its primary cooking source, and staff has included new Condition #28 to require this fuel source for the cooker, which was also an SUP requirement for his Del Ray restaurant. Exhaust from the cooker will use the existing duct work, which vents through the building and up to the roof, which was used in connection with the pizza oven at the former Jerry's. A dilution fan, which treats odors by accelerating exhaust air and dispersing it higher into the atmosphere than typical venting equipment, will also be installed on the roof. Given that staff has not received any odor complaints at the applicant's Del Ray restaurant, staff believes this odor treatment is acceptable.

Staff has included new and amended conditions in this report. Some of these changes have been made for consistency with today's standard conditions. For example, it has deleted Conditions #22 and #23 which, although standard conditions in 2006, are no longer regularly applicable to SUP approvals for restaurants. It has also changed Condition #2 regarding required interior finishes to eliminate language specific to the former Jerry's.

New condition language has been included to address food delivery, smoking and noise. First, the delivery of food to customers was not part of the Jerry's SUP approval in 2006 and is now explicitly prohibited in new Condition #26. Second, staff agrees with a condominium resident's concern that cigarette smoke from customers could create a nuisance by wafting up and into residential apartments located immediately above the restaurant. Due to the mixed-use nature and condominium ownership of the building, the adjacent residences are not located on separate property such that existing Condition #13 would apply. Staff has therefore included a new Condition #27 to explicitly prohibit smoking in the outdoor dining area, as well as in front of the restaurant where indoor-seated customers or employees may smoke, to prevent potential odor impacts.

Staff shares some of the concerns about noise expressed by residents of Carlyle Square at its recent meeting with the applicant. It is important to note that the applicant will not offer live entertainment at the restaurant and it is specifically prohibited in Condition #4. However, as a general matter, staff believes that an increased potential for noise issues from restaurants could occur at mixed-use buildings, even without live entertainment. It is also aware of the specific history of noise problems at the former Zikrayet, which included the contention by residents that the building's particular construction materials contributed to some of the noise problems they experienced. For all of these reasons, staff has included an amendment to Condition #4 which will limit all sound amplification to low-level background music for restaurant patrons. Similar condition language was included in the SUP approval for Sushi Naru, which replaced Zikrayet in 2011.

Staff hereby approves the Special Use Permit request.

ADMINISTRATIVE ACTION - DEPARTMENT OF PLANNING AND ZONING:

Date: June 17, 2013
Action: Approved

Joanna Anderson, Acting Deputy Director

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

CONDITIONS OF SPECIAL USE PERMIT #2013-0028

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#2006-0098)
2. **CONDITION AMENDED BY STAFF:** Seating shall be provided for no more than 51 indoor patrons and 20 outdoor patrons. Outdoor seating is subject to the following:
 - (a) Outdoor seating shall not encroach upon the City right-of-way or the public sidewalk access easement area.
 - (b) ~~Litter shall be picked up as it is generated.~~ The outside dining area shall be cleaned at the close of each day of operation.
 - (c) The outside dining area shall be cleaned at the close of each day of operation.
 - (d) Any outdoor seating areas, including umbrellas, shall not include advertising signage. (P&Z) (SUP#2006-0098)
3. **CONDITION AMENDED BY STAFF:** The design of the restaurant shall reflect the character, quality and high standards established for Carlyle. The applicant shall prepare a design plan for both interior and exterior areas, to include interior finishes, colors, materials, furniture, lighting and specifications, which shall be to the satisfaction of the Director of Planning and Zoning, and which shall include the following elements:
 - (a) All tables and chairs shall be constructed of wood material ~~and seating areas shall maximize floor areas~~ or alternative high-quality material to the satisfaction of the Director.
 - (b) Fluorescent lighting shall be prohibited in the dining area. Lighting in this area shall be kept at low levels to create a warm, attractive ambiance.
 - (c) Any self-service beverage machine shall be located so that it is minimally visible from the exterior of the restaurant.
 - (d) Interior signage shall be minimized. ~~Decorative signs, except for a few Jerry's Subs signs and required directional signs, shall not be permitted along the food service counter but may be consolidated in areas not visible from the street.~~
 - (e) Menu boards shall be plain, with no internal lighting or pictures of food.
 - (f) The outdoor dining area shall include planters with four seasons of decorative plant material. (P&Z) (SUP#2006-0098)
4. **CONDITION AMENDED BY STAFF:** No live entertainment shall be provided at the restaurant. Sound amplification within the restaurant shall be limited to low-level background music for restaurant patrons. (P&Z) (SUP#2006-0098)

5. **CONDITION AMENDED BY STAFF:** The hours of operation shall be limited to 7 a.m. to 12 midnight daily. Meals ordered before 12 midnight may be served, but no new patrons may be admitted and no alcoholic beverages may be served after 12 midnight, and all patrons must leave by 1 a.m. (P&Z) (~~SUP#2006-0098~~)
6. The applicant shall post the hours of operation at the entrance to the restaurant. (P&Z) (SUP#2006-0098)
7. On premises beer and wine service is permitted; no off-premise sales are permitted. (P&Z) (SUP#2006-0098)
8. No food, beverages, or other material shall be stored outside. (P&Z) (SUP#2006-0098)
9. 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) (SUP#2006-0098)
10. 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) (SUP#2006-0098)
11. Window signs or posters shall not block the visibility of the interior of the store from the street. Shelving, boxes, coat racks, storage bins, closets, and similar items shall be located where they do not block the windows. All window coverings shall remain open as much as possible and some interior accent lighting shall be provided when the business is closed. The front of the business may not be illuminated by flood lights placed on the sidewalk, trees or poles. (P&Z) (SUP#2006-0098)
12. Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers. (T&ES) (SUP#2006-0098)
13. 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 and Environmental Services. (T&ES) (SUP#2006-0098)
14. Loudspeakers shall be prohibited from the exterior of the building, and no amplified sounds shall be audible at the property line. (T&ES) (SUP#2006-0098)
15. **CONDITION AMENDED BY STAFF:** The applicant shall contact the Crime Prevention Unit of the Alexandria Police Department at 703-838-4520 for a security survey and a robbery awareness program for all employees prior to operation. (Police) (~~SUP#2006-0098~~)

16. ~~**CONDITION DELETED BY STAFF (See Condition #5):** Meals ordered before the closing hour may be served, but no new patrons may be admitted and no alcoholic beverages may be served after the closing hour, and all patrons must leave by one hour after the closing hour. (P&Z) (SUP#2006-0098)~~
17. 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#2006-0098)
18. The applicant shall require that employees who drive to work use off-street parking. (P&Z) (T&ES) (SUP#2006-0098)
19. The applicant shall post signs directing patrons to the availability of parking in area garages. (P&Z) (SUP#2006-0098)
20. 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. (T&ES) (SUP#2006-0098)
21. Any permanent structures which are required for the outdoor seating area shall be subject to review and approval by the Carlyle Design Review Board. (P&Z) (SUP#2006-0098)
22. ~~**CONDITION DELETED BY STAFF:** Applicant shall provide the City \$1000.00 for one Model SD-42 Bethesda Series litter receptacle for installation on the adjacent public right-of-way (monetary contribution to be submitted to the Department of T&ES, Engineering Division, Room 4130, 301 King Street). Contact T&ES Solid Waste Division (703/751-5130) regarding information on ordering and installation. The trash container shall be emptied at the close of business day. (P&Z)(T&ES) (SUP#2006-0098)~~
23. ~~**CONDITION DELETED BY STAFF:** The applicant shall provide storage space for solid waste and recyclable materials containers as outlined in the City's "Solid Waste and Recyclable Materials Storage Space Guidelines", or to the satisfaction of the Director of Transportation & Environmental Services. The City's storage space guidelines and required Recycling Implementation Plan forms are available at: www.alexandriava.gov or contact the City's Solid Waste Division at 703-519-3486 ext.132. (T&ES) (SUP#2006-0098)~~
24. ~~**CONDITION DELETED BY STAFF (See Condition #2b):** The outside dining area shall be cleaned at the close of each day of operation. (P&Z) (SUP#2006-0098)~~
25. ~~**CONDITION AMNEDED BY STAFF:** 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 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 a result of a complaint that rises to the level of a violation, 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#2006-0098~~)

26. **CONDITION ADDED BY STAFF:** No delivery service of food to customers shall operate from the restaurant. (P&Z)
27. **CONDITION ADDED BY STAFF:** No smoking shall be allowed in front of the restaurant or in any outdoor dining area. (P&Z)
28. **CONDITION ADDED BY STAFF:** The applicant shall use natural gas as the primary fuel in the barbecue cooker. (T&ES)
29. **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)
30. **CONDITION ADDED BY STAFF:** Supply deliveries, loading, and unloading activities shall not occur between the hours of 11:00pm and 7:00am. (T&ES)

CITY DEPARTMENT COMMENTS

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

Transportation & Environmental Services

R-1 *Conditions carried forward from SUP2006-0124*

11. 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)(T&ES)
13. **Deleted by City Staff:** ~~Applicant shall provide the City \$500.00 for one Model SD-42 Bethesda Series litter receptacle for installation on the adjacent public right-of-way (monetary contribution to be submitted to the Department of T&ES, Engineering Division, Room 4130, 301 King Street). Contact T&ES Solid Waste Division (703/751 5130) regarding information on ordering and installation. (T&ES)~~
12. Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers. (SUP2006-0124) (T&ES)
13. 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. (SUP2006-0124) (T&ES)
14. **Amended by City Staff:** Loudspeakers shall be prohibited from the exterior of the building, and no amplified sounds shall be audible at the property line. (SUP2006-0124) (T&ES)
19. 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. (T&ES)(P&Z)

R-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)

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

R-4 The applicant shall use natural gas as the primary fuel in the barbecue cooker. (T&ES)

STATEMENT OF CONSENT

The undersigned hereby agrees and consents to the attached conditions of this Special Use Permit #2013-0032. The undersigned also hereby agrees to obtain all applicable licenses and permits required for the restaurant at 510 John Carlyle Street.

Applicant - Signature

Date

Applicant – Printed

Date