

DATE: March 31, 2017
TO: Alex Dambach, Division Chief
Department of Planning and Zoning
FROM: Sara Brandt-Vorel, Urban Planner
Department of Planning and Zoning
SUBJECT: Special Use Permit #2017-0008
Administrative Review for a Change of Ownership
Site Use: Restaurant
Applicant: Lori Leetz & Ann Feeley
Location: 1028 King Street
Zone: KR/King Street Retail

Request

Special Use Permit #2017-0008 is an administrative change of ownership request for an existing restaurant use of approximately 1,700 square feet located at 1028 King Street. The applicant proposes to continue operating a similar restaurant concept with daily hours of 7 a.m. to 10 p.m. and provide breakfast, lunch and dinner options for patrons. The restaurant would maintain the use of 24 indoor seats, a staff of up to three employees at a time, and on-premises alcohol sales of beer and wine. The applicant does not propose any live entertainment from the restaurant.

Elements of the restaurant proposal include:

Hours of Operation: 7 a.m. – 10 p.m., Daily

Seating: 24 indoor seats.

Type of Service: Counter-service and carry-out.

Delivery: No delivery proposed but up to two delivery vehicles permitted per previous SUP approvals.

Alcohol: On-premises alcohol sales proposed.

Employees per Shift: 3 employees per shift.

Noise: Minimal noise, typical with restaurant operations is expected.

Odors: Minimal odors from a restaurant use are addressed through proper ventilation.

Background

The subject site has historically served as a restaurant use. The first record of a restaurant was for the Egg Roll House which legally operated at the site prior to 1992 without a Special Use Permit as the restaurant use predated the zoning ordinance requirement requiring a SUP. In January 1992, City Council approved SUP #2548 for a restaurant use known as the King Henry Deli to operate as a counter-service restaurant with 24 indoor seats, carry-out, and delivery service, on-premises beer and wine, and daily hours of 7 a.m. - 10 p.m. In January 2002, City Council approved SUP #2001-0127 for a review of the restaurant operations and a change of ownership to Nickell's & Scheffler, Ltd, who have operated the restaurant with the same conditions until this current change of ownership request.

Staff conducted an inspection in February 2017 and did not note any violations of the conditions of Special Use Permit #2001-0127.

Parking

The applicant's proposed restaurant is located within the Central Business District and Section 8-300(B) of the Zoning Ordinance waives the parking requirement for restaurants located within the Central Business District. As such, the applicant is not required to provide off-street parking for restaurant seating.

However, should the applicant choose to utilize a delivery service, the applicant would be required to provide one off-street parking space for each delivery vehicle, for a total of up to two off-street parking spaces which are provided behind the applicant's building.

Zoning/Master Plan Designation

According to Section 11-513(C)(1) of the Zoning Ordinance, a Change of Ownership may be approved through an administrative Special Use Permit.

The restaurant is located within the boundaries of the Old Town Small Area Plan which promotes active ground-floor uses along King Street to create a vibrant pedestrian environment. As such, the continued restaurant use is consistent with the goals of the Small Area Plan. The Old Town Small Area Plan also includes the Old Town Restaurant Policy which requires an analysis of a proposed restaurant's impact on parking, late hours, alcohol sales, and littering.

The restaurant is located in the City's Old and Historic District, therefore any exterior work or signage will require review and approval by the Board of Architectural Review (BAR). The applicant's restaurant location, on King Street, enables the applicant to apply to the King Street Outdoor Dining Program to request seasonally appropriate outdoor dining.

Community Outreach

Public Notice was provided through eNews, via the City's website, and by posting a placard at the site. In addition, Old Town Civic Association and the West Old Town Citizens Association

were informed of the new restaurant application. Staff did not receive any comments from the public in regards to the Change of Ownership request.

Staff Action

Staff finds the change of ownership application to be reasonable and an opportunity to support an established restaurant along upper King Street. The applicant's concept would maintain and expand the restaurant offerings for residents, businesses and visitors by providing lunch and dinner options and a men expansion to provide breakfast items. Staff has used the Change of Ownership request to update the previous restaurant conditions and align the SUP conditions with those of other restaurants in the City. Staff has also evaluated the applicant's restaurant request in the context of the Old Town Restaurant Policy and finds the restaurant complies with policy goals of protecting the existing quality of life of the neighborhood.

Parking: The applicant's change of ownership request would continue an existing restaurant use and as such, would not have an impact on the overall parking demand along King Street. In addition, the restaurant is well situated in close proximity to a number of public transportation options, such as the King Street Metro, the Dash bus, Metrorail buses, and the King Street Trolley which may reduce patron and employee car use. The subject site is also within two blocks of two Capital Bikeshare Stations. Nonetheless, staff has carried forward previous conditions to limit potential parking impacts such as Condition #10 requiring delivery vehicles to be parked off-street and Condition #16 which requires employees to use off-street parking. In addition, staff updated standard restaurant conditions to include Condition #25 requiring the applicant to promote public transportation and explore an employee transportation benefits program and Condition #27 which requires the applicant to provide information on alternative forms of transportation to reach the restaurant.

Litter: Staff finds the continuation of a counter-service and carry-out restaurant specializing in sandwiches and salads have a limited potential to increase litter along King Street. However, staff has carried forward Condition #9 requiring the applicant to monitor the sidewalk and remove any litter during operating hours.

Alcohol and Late Hours: Staff does not object to the applicant's request to maintain their on-premises alcohol sales through the Change of Ownership request. As such, staff has carried forward Condition #13 allowing on-premises alcohol sales and added Condition #23 which requires all staff to be trained upon the conditions of the Special Use Permit and how to prevent underage sales of alcohol. The applicant has also requested to continue the daily operating hours of 7 a.m. to 10 p.m. which staff supports, however to limit potentially disruptive late night activity, staff carried forward Condition #11 which requires all patrons and activity on site to cease within one hour of the closing time.

Diversity of Uses: The applicant's change of ownership request would continue an existing restaurant use and would therefore not change the balance of uses found in the King Street area.

Staff hereby approves the Special Use Permit request.

ADMINISTRATIVE ACTION – DEPARTMENT OF PLANNING AND ZONING:

Date: March 31, 2017

Action: Approved



Alex Dambach, Division Chief

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

CONDITIONS OF SPECIAL USE PERMIT #2017-0008

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 #2548)
2. Seating shall be provided inside for no more than 24 patrons. (P&Z) (SUP #2548)
3. **CONDITION AMENDED BY STAFF:** No outside dining facilities shall be located on the premises, unless approved through separate application for participation in the King Street Outdoor Dining Program. (P&Z)-(SUP #2548)
4. **CONDITION AMENDED BY STAFF:** The applicant shall post the hours of operation at the entrance of the business. The hours during which the business is open to the public shall be restricted to between 7:00 A.M. and 10:00 P.M., seven days a week as requested by the applicant. (P&Z)-(SUP #2001-0127)
5. No food, beverages, or other material shall be stored outside. (P&Z) (SUP #2548)
6. **CONDITION AMENDED BY STAFF:** Trash and garbage shall be stored inside or placed in sealed containers which that do not allow odors to escape, invasion by animals, or leaking 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. Outdoor containers shall be maintained to the satisfaction of the Directors of Planning & Zoning and Transportation & Environmental Services, including replacing damaged lids and repairing/replacing damaged dumpsters. (SUP #2001-0127) (P&Z)(T&ES)
7. Condition deleted. (SUP #2001-0127)
8. **CONDITION DELETED BY STAFF:** ~~The applicant shall obtain, at its expense, one Model SD 42 Ironsides series trash container to be placed on the south east corner of King and Henry Streets at or near the location of the existing old model city trash can. The applicant shall contact T&ES Solid Waste Division at 703-751-5130. (P&Z) (SUP #2001-0127)~~
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. (P&Z) (SUP #2001-0127)
10. The delivery service shall be limited to two small motor vehicles (e.g. not large delivery trucks), bicycles, and pedestrians. The two small motor vehicles shall be required to park on-site. Such vehicles shall not be parked on public rights-of-way. (P&Z) (SUP #2001-0127)

11. 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 #2001-0127)
12. No live entertainment shall be provided at the restaurant. (P&Z) (SUP #2001-0127)
13. **CONDITION AMENDED BY STAFF:** ~~On-site sale of beer and wine is permitted~~ On-premises alcohol service may be permitted, consistent with a valid Virginia ABC license; no off-premises alcohol sales are permitted. (P&Z)(SUP #2001-0127)
14. **CONDITION AMENDED 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)-(SUP #2001-0127)
15. **CONDITION AMENDED BY STAFF:** The use must comply with the city's noise ordinance. No amplified sound shall be audible at the property line. All loudspeakers shall be prohibited from the exterior of the building. (P&Z)(T&ES)-(SUP #2001-0127)
16. The applicant shall require its employees who drive to work to use off-street parking. (P&Z) (SUP #2001-0127)
17. **CONDITION DELETED AND REPLACED WITH CONDITION 26:** The applicant shall direct patrons to the availability of parking at nearby public garages. (P&Z) (SUP #2001-0127)
18. **CONDITION AMENDED 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)-(SUP #2001-0127)
19. **CONDITION SATISFIED AND DELETED BY STAFF:** ~~The applicant shall contribute \$250 to the City for the City's installation of one street tree in the empty tree well located directly west of and adjacent to the subject building along South Henry Street to the satisfaction of the Director of Planning and Zoning and the City Arborist. The applicant shall also install and maintain living plants in the existing or a replacement planter at the front of the business along King Street and in the existing planting bed at the side of the building along South Henry Street to the satisfaction of the Director of Planning and Zoning.~~ (P&Z) (SUP #2001-0127)
20. **CONDITION SATISFIED AND DELETED BY STAFF:** ~~Building maintenance and upgrades shall be performed to include the following: (1) paint the wood trim of the existing window on the first floor only, (2) repair the brick wall located under the show window on the South Henry Street side of the building, and (3) reroute or retrofit the mechanical system, currently mounted on the building wall facing South Henry Street, so that it is not visible on the exterior walls of the building or, at a minimum, is much less obtrusive. The work must be completed to the satisfaction of the Director of the~~

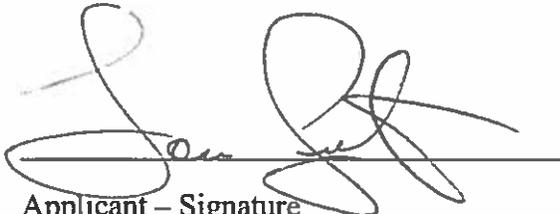
~~Department of Planning and Zoning and within one year from approval, expect that the work to the mechanical venting system shall be done within three years of the applicant's beginning operation of the restaurant. (P&Z) (SUP #2001-0127)~~

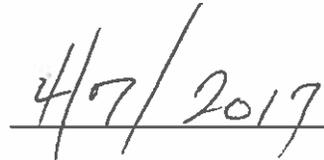
21. **CONDITION DELETED BY STAFF:** ~~The applicant is to contact the Crime Prevention Unit of the Alexandria Police Department regarding a security survey for the business. This is to be completed prior to the restaurant opening for business. (Police) (SUP #2001-0127)~~
22. **CONDITION AMENDED BY STAFF:** The Director of Planning and Zoning shall review the special use permit after it has been operational for 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 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) (SUP #2001-0127)
23. **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. (P&Z)
24. **CONDITION ADDED BY STAFF:** All windows shall remain transparent. The placement or construction of items that block the visibility through windows of the interior of the commercial space from the street and sidewalk, including but not limited to walls, window film, storage cabinets, carts, shelving, boxes, coat racks, storage bins, and closets, shall be prohibited. This is not intended to prevent retailers from displaying their goods in display cases that are oriented towards the street frontage. (P&Z)
25. **CONDITION ADDED BY STAFF:** The applicant shall encourage its employees to use public transportation to travel to and from work. The business shall contact Go Alex at goalex@alexandriava.gov for information on establishing an employee transportation benefits program. (P&Z)
26. **CONDITION ADDED BY STAFF:** The applicant shall direct patrons to the availability of parking at nearby public garages and shall participate in any organized program to assist with both employee and customer parking for businesses that is formed as a result of suggested parking strategies in the King Street Retail Strategy (Old Town Area Parking Study). (P&Z)
27. **CONDITION ADDED BY STAFF:** The applicant shall provide information about alternative forms of transportation to access the site, including but not limited to printed

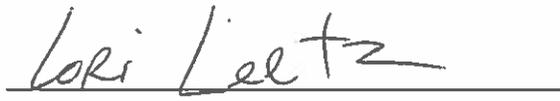
- and electronic business promotional material, posting on the business website, and other similar methods. Contact Go Alex at goalex@alexandriava.gov for more information on establishing an employee transportation benefits program. (P&Z)
28. **CONDITION ADDED BY STAFF:** The applicant shall encourage patrons to park off-street through the provision of information about nearby garages on advertising and on the restaurant's website. (P&Z)
 29. **CONDITION ADDED BY STAFF:** Exterior power washing of the building shall not be completed using any kind of detergents. (P&Z)
 30. **CONDITION ADDED BY STAFF:** Chemicals, detergents or cleaners stored outside the building shall be kept in an enclosure with a roof. (P&Z)
 31. **CONDITION ADDED BY STAFF:** If used cooking oil is stored outside, the lid of the used cooking oil drum shall be kept securely closed (using a bung -- a secure stopper that seals the drum) when not receiving used oil. The drum shall be placed on secondary containment, and situated under cover to prevent rainwater from falling on it.(P&Z)
 32. **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)
 33. **CONDITION ADDED BY STAFF:** Supply deliveries, loading, and unloading activities shall not occur between the hours of 11:00pm and 7:00am. (P&Z)

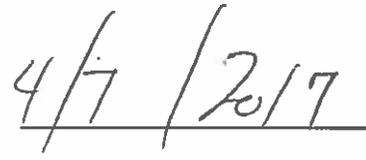
STATEMENT OF CONSENT

The undersigned hereby agrees and consents to the attached conditions of this Special Use Permit #2017-0008. The undersigned also hereby agrees to obtain all applicable licenses and permits required for the restaurant use at 1028 King Street.


Applicant – Signature


Date


Applicant – Printed


Date

