

DATE: November 29, 2022

TO: Tony LaColla, Division Chief, Land Use Services
Department of Planning and Zoning

FROM: Patrick Silva, Urban Planner
Department of Planning and Zoning

SUBJECT: Special Use Permit #2022-00091
Administrative Review for Change of Ownership
Site Use: Restaurant with Outdoor Dining
Applicant: Alex Rosenberg
Location: 3401 Mount Vernon Avenue
Zone: CSL / Commercial Service Low

Request

Special Use Permit #2022-00091 is a request to change ownership of a 1,017 square foot restaurant with outdoor dining from Eulogia Torrez to Alex Rosenberg. The applicant will begin to operate the business under the name District Biscuit Company with X outdoor seats. The restaurant will specialize in breakfast items such as biscuits, breakfast sandwiches, and coffee. No other changes are proposed.

Background

The building was constructed in the 1920s as a single-family dwelling and by 1990 was occupied by a beauty salon. The first Special Use Permit approval for the site came in February 2010 when City Council approved Special Use Permit #2009-00064 for a restaurant and a four-space parking reduction. However, the business never opened and Special Use Permit #2009-00064 expired in August 2011. In January 2013, City Council approved Special Use Permit #2012-00078 for the same previous applicants for a restaurant and a parking reduction for both a three-space parking reduction and a parking reduction to reduce the size of the new parking spaces to compact size. However, by October 2015 the business had ceased operating at the subject site. Next, in April 2017 staff administratively approved Special Use Permit #2017-00025 for a restaurant use. Renovations commenced but the applicant failed to open the restaurant and Special Use Permit #2017-00025 expired in October 2018. Most recently, staff administratively approved Special Use Permit #2019-00011 for a restaurant with outdoor dining, which recently closed.

Parking

Pursuant to Section 8-200(A)(17)(a) of the Zoning Ordinance, restaurants within the enhanced transit area are required to provide a minimum of one parking space per 1,000 square feet of floor area. The approximately 1,017 square foot structure would require two parking spaces. Outdoor dining up to 20 seats are exempt from providing parking spaces. Section 8-100(A)(9) of the Zoning Ordinance exempts nonresidential uses from providing parking if the requirement is two spaces or less. Therefore, the applicant satisfies its parking requirement pursuant to the Zoning Ordinance. Nonetheless, an on-site parking lot provides five spaces for restaurant patrons.

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Community Outreach

Public notice was provided through the City's eNews, via the City's website, and by posting a placard at the site. In addition, the Del Ray Citizens Association was notified of the restaurant application. Staff has received no public comments regarding the request.

Staff Action

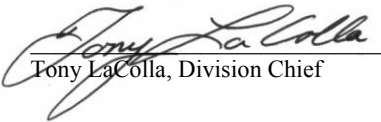
Staff does not object to the request for a change of ownership as a restaurant has operated successfully at this location for many years with little to no negative impacts on the surrounding neighborhood.

Conditions from the previous SUP have been carried forward, however, several Special Use Permit conditions have been updated to reflect new standard conditions for restaurant uses in the City. This includes amendments to Conditions #2, #3, #6, #7, #10, and #23. Condition #2 allows for up to 40 outdoor dining seats on private property, as allowed through administrative SUP for restaurants. If the applicant were to increase the number of outdoor dining seats to 40, the excess spaces in the parking lot would accommodate the Zoning Ordinance requirement.

Staff hereby approves the Special Use Permit request.

ADMINISTRATIVE ACTION - DEPARTMENT OF PLANNING AND ZONING:

Date: November 29, 2022
Action: Approved


Tony LaColla, Division Chief

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

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CONDITIONS OF SPECIAL USE PERMIT # 2022-00091

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 business or entity in which the applicant has a controlling interest. (P&Z) (SUP2019-00011)
2. **CONDITION AMENDED BY STAFF:** The maximum number of indoor seats at the restaurant ~~may not exceed 20 shall comply with the state building code.~~ The maximum number of outdoor seats may not exceed 240. (P&Z) (~~SUP2019-00011~~)
3. **CONDITION AMENDED BY STAFF:** ~~The hours of the operation shall be limited to between 7 a.m. and 10 p.m. daily for both indoor and outdoor operations. Orders placed before 10 p.m. may be served, but no new patrons may be admitted, and all patrons must leave the premises one hour after the closing hour by 11 p.m.~~ (P&Z) (~~SUP2019-00011~~)
4. The applicant shall post the hours of operation at the entrance to the business. (P&Z) (SUP2019-00011)
5. 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) (SUP2019-00011)
6. **CONDITION AMENDED BY STAFF:** ~~No delivery service shall be vehicle operated and managed by the applicant are permitted. Delivery vehicles must be parked off-street when not in use.~~ (P&Z) (~~SUP2019-00011~~)
7. **CONDITION AMENDED BY STAFF:** On and off premises alcohol sales are permitted in compliance with Virginia ABC requirements. (P&Z) (~~SUP2019-00011~~)
8. No food, beverages, or other material shall be stored outside, with the exception of materials specified in other conditions. (P&Z) (SUP2019-00011)
9. 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) (SUP2019-00011)
10. **CONDITION AMENDED BY STAFF:** ~~No indoor limited live entertainment shall be permitted~~ may be offered and must comply with the City's noise ordinance. 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

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entertainment shall reflect the subordinate nature of the entertainment by featuring food service as well as the entertainment. (P&Z) (SUP2019-00011)

11. Outdoor seating areas shall not include signage, including on umbrellas. (P&Z) (SUP2019-00011)
12. 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. (T&ES) (SUP2019-00011)
13. 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 about available resources. (T&ES) (SUP2019-00011)
14. The applicant shall require its employees who drive to use off-street parking. (T&ES) (SUP2019-00011)
15. 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. (T&ES) (SUP2019-00011)
16. Exterior power washing of the building shall not be completed using any kind of detergents. (T&ES) (SUP2019-00011)
17. Chemicals, detergents, cleaners and used cooking oils shall be stored inside the building. (T&ES) (SUP2019-00011)
18. Trash and garbage shall be stored inside or in sealed containers that do not allow odors to escape, invasion by animals, or leaking. No trash or debris shall be allowed to accumulate outside of those containers. Outdoor containers shall be maintained to the satisfaction of the Directors of P&Z and T&ES, including replacing damaged lids and repairing/replacing damaged dumpsters. (P&Z) (T&ES) (SUP2019-00011)
19. 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) (SUP2019-00011)

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20. 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) (SUP2019-00011)
21. 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. (T&ES) (SUP2019-00011)
22. Supply deliveries, loading, and unloading activities shall not occur between the hours of 11:00pm and 7:00am. (T&ES) (SUP2019-00011)
23. **CONITION 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 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 ore revised conditions are needed. (P&Z) (~~SUP2019-00011~~)

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STATEMENT OF CONSENT

The undersigned hereby agrees and consents to the attached conditions of this Special Use Permit #2022-00091. The undersigned also hereby agrees to obtain all applicable licenses and permits required for the restaurant at 3401 Mount Vernon Avenue.



Applicant - Signature

11/29/2022

Date

Alex Rosenberg

Applicant - Printed

11/29/2022

Date