

DATE: November 2, 2010

TO: Barbara Ross, Deputy Director
Department of Planning and Zoning

FROM: Nathan Randall, Planner
Department of Planning and Zoning

SUBJECT: Special Use Permit #2010-0065
Administrative Review for a Minor Amendment
Site Use: Restaurant
Applicant: Cheesetique by Jill Erber
Location: 2411 Mt. Vernon Avenue
Zone: CL / Commercial Low

Request

Special Use Permit #2010-0065 is a minor amendment request to expand the restaurant portion of the applicant's existing retail wine and cheese shop and restaurant. The applicant proposes to add approximately 900 square feet to the restaurant to accommodate a second dining room and a larger kitchen. The number of seats at the restaurant is proposed to increase from 40 seats (including outdoor seats) to 68 indoor seats and 12 outdoor seats for a total of 80. No other changes to the operation are proposed. The applicant will continue to operate a combined restaurant and retail wine and cheese shop with off-premises alcohol sales, trading under the name "Cheestique."

Background

On December 15, 2007, City Council granted Special Use Permit #2007-0120 to the applicant for the operation of the restaurant and wine and cheese shop with off-premises alcohol sales.

In December 2008 and again in June 2010, City Council approved zoning changes known as the Small Business Zoning amendments. These changes included an expansion of the eligibility criteria for SUP minor amendment approval. As a result, the applicant in this case is now permitted to apply for a minor amendment for an increase in intensity at the existing restaurant that is no greater than would otherwise be allowed by an Administrative Special Use Permit for a brand-new restaurant.

On October 29, 2010 staff visited the subject property and found no violations of the conditions of Special Use Permit #2007-0120. Staff did consult with the applicant regarding the size and visibility of the required sign to inform patrons of available parking. The applicant subsequently installed a larger sign and added a second one. Staff has not received any complaints that would require staff to docket the special use permit for public hearing.

Consistency with Minor Amendment Criteria

Staff is allowing the request to proceed as a minor amendment for the following reasons:

1. When the overall use is considered, the changes will have little or no zoning impact. (11-511(A)(2)(a)). While there is the potential of parking impacts, there is a sufficient number of spaces in the lot behind, within the retail parking area, to meet the technical parking requirements for this and the other business uses on the block for which parking is required.

2. The proposal meets the criteria for an increase in intensity under section 11-511(A)(2)(b)(ii) because the proposed change is within the 100-seat maximum allowed for administrative approval for a restaurant under section 11-513(L). The restrictions of section 11-511(A)(2)(b)(i) do not apply when the provisions of (b)(ii) work to allow the change, i.e., what is asked for is no more than would otherwise be allowed under the Administrative SUP program.

One element of the standards for the Administrative SUP for a restaurant, that the restaurant not include off-premises alcohol, is not present. This restaurant does have an off-premises license, and its current SUP allows it to sell off-premises alcohol. This feature is consistent with its original and continuing business as a retail store offering wine and cheese and related items to both retail and restaurant customers. The regulations for minor amendment do not speak to this circumstance and do not technically require compliance with *all* of the administrative regulations in order to meet section 11-511(A)(2)(b)(ii). More significant to staff is the fact that City Council has already approved the off-premised alcohol element, and done so after a public hearing. Furthermore, in this particular case of a hybrid retail/restaurant use, the allowing off premise alcohol relates to the original retail wine business. It was not a separate feature of the restaurant use, as is sometimes the case where off premise alcohol is permitted as part of an SUP approval for a restaurant.

3. There have been no substantiated violations of Special Use Permit conditions within the last five years.

Parking

According to Section 8-200(A)(8) of the Zoning Ordinance, a restaurant is required to provide one off-street parking space for every four seats. According to Section 6-604(B) of the Zoning Ordinance, restaurants located within the Mount Vernon Urban Overlay zone are not required to provide parking for their first 20 outdoor dining seats. A restaurant with 68 indoor seats and 12 outdoor seats in the Mount Vernon Urban Overlay zone is required to provide 17 off-street parking spaces.

The applicant fulfills this parking requirement with 17 parking spaces in the rear 26-space parking lot. The remaining nine parking spaces fulfill the parking requirement of the combined art gallery and retail clothing shop (Blueberry Art Gallery / Labels Exchange) on the lower level of 2417 Mt. Vernon. None of the other residential and

commercial uses on the property, which comprises the entire block, are required to provide any parking. The studio apartments upstairs, Homemade Pizza Company, Acoustic Axis Instruments, Let's Meat on the Avenue, Campbelland Company, and Virginia Commerce Bank are grandfathered in terms of parking and are not required to provide off-street parking. Two other businesses on the property, Caboose restaurant and Studio Body Logic have each received parking reductions that bring their parking requirement down to zero.

Community Outreach

Public notice was provided through eNews, via the City's website, and by posting a placard on the site. In addition, the Del Ray Citizens and Del Ray Business Associations were sent an e-mail with information about the current application. Staff has not received any comments from residents or adjacent businesses that would lead staff to docket the Special Use Permit for public hearing.

Staff Action

Staff supports the applicant's request. The proposal meets both long-standing and newly-added criteria for minor amendment approval. It is consistent with the Mount Vernon Avenue Business Area Plan which supports retail and restaurant uses in the historic core of the Del Ray neighborhood. The business has operated for approximately three years at this location without any violations.

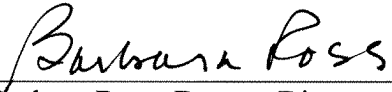
Staff has updated certain conditions of approval and added two conditions regarding outdoor dining, to be consistent with current standard condition language. In addition to increasing the maximum number of seats at the restaurant consistent with the applicant's current request, staff has also clarified the number of indoor and outdoor seats allowed here in consultation with the applicant. This clarification also allows the applicant to take advantage of the parking exemption for outdoor dining seats in the Mount Vernon Urban Overlay zone.

Staff finds that the proposal is consistent with the minor amendment eligibility requirements contained in Section 11-511(2)(b)(ii) and hereby approves the minor amendment request.

ADMINISTRATIVE ACTION - DEPARTMENT OF PLANNING AND ZONING:

Date: November 9, 2010

Action: Approved



Barbara Ross, Deputy Director

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

CONDITIONS OF SPECIAL USE PERMIT #2010-0065

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 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#2007-0120)
2. The hours of operation shall be limited to 7:00 a.m. to 10:00 p.m. Sunday through Thursday and 7:00 a.m. to 11:00 p.m. Friday and Saturday. The closing hour for indoor seating may extend until 12:00 midnight four times a year for special events. (P&Z) (SUP#2007-0120)
3. The applicant shall post the hours of operation at the entrance of the business. (P&Z) (SUP#2007-0120)
4. 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#2007-0120)
5. Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys, or storm sewers. (T&ES) (SUP#2007-0120)
6. The applicant shall control 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#2007-0120)
7. All loudspeakers shall be prohibited from the exterior of the building and no amplified sounds shall be audible at the property line. (T&ES) (SUP#2007-0120)
8. **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#2007-0120)~~
9. 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) (SUP#2007-0120)

10. **CONDITION SATISFIED AND DELETED BY STAFF:** Applicant shall contribute ~~\$500.00~~ to the Litter Control Fund for the installation of litter receptacles along the public right of ways. Monetary contribution to be submitted to the Department of T&ES, Engineering Division, Room 4130, 301 King Street within 60 days of City Council approval. (T&ES) (SUP#2007-0120)
11. 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#2007-0120)
12. Trash and garbage shall 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 and debris shall be allowed to accumulate on site outside of those containers. (T&ES) (SUP#2007-0120)
13. **CONDITION AMENDED BY STAFF:** The applicant shall provide information on alternative forms of transportation to access Mt. Vernon Avenue including but not limited to printed and electronic business promotional material, posting on the business website, and other similar methods. 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. (P&Z) (T&ES) (SUP#2007-0120)
14. **CONDITION AMENDED BY STAFF:** At such time that a shared parking program has been adopted by the City Council, the applicant shall participate in the program. (P&Z) (T&ES) (SUP#2007-0120)
15. **CONDITION AMENDED BY STAFF:** 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. (P&Z) (T&ES) (SUP#2007-0120)
16. **CONDITION AMENDED BY STAFF:** For indoor patrons, meals ordered before the closing hour may be served, but no new patrons may be admitted after the closing hours, and all patrons must leave by one hour after the closing hour. (P&Z) (SUP#2007-0120)
17. Limited, non-amplified live entertainment may be offered at the restaurant. 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 entertainment shall reflect the subordinate nature of the entertainment by featuring food service as well as the entertainment. (SUP#2007-0120)

18. **CONDITION AMENDED BY STAFF:** The maximum number of indoor seats shall be ~~limited to 40~~ 68 ~~seats with no more than 16~~ The maximum number of outdoor seats shall be 12. (P&Z) (SUP#2007-0120)
19. No food, beverages, or other material shall be stored outside. (P&Z) (SUP#2007-0120)
20. **DUPLICATE CONDITION DELETED 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) (SUP#2007-0120)
21. Beer and wine table service and off-premise alcohol sales are permitted. (P&Z) (SUP#2007-0120)
22. **CONDITION DELETED BY STAFF:** ~~Provide a menu or list of foods to be handled at this facility to the Health Department prior to opening.~~ (Health) (SUP#2007-0120)
23. The applicant is to contact the Community Relations Unit of the Alexandria Police Department at 703-838-4520 regarding a security survey for the business. (Police) (SUP#2007-0120)
24. The applicant is to contact the Community Relations Unit of the Alexandria Police Department at 703-838-4520 regarding robbery readiness training for all employees. (Police) (SUP#2007-0120)
25. Beer or wine coolers may be sold only in 4-packs, 6-packs or bottles of more than 40 fluid ounces. Wine may be sold only in bottles of at least 375 ml or 12.7 ounces. Wine with an alcohol content greater than 20% may not be sold. (PC) (SUP#2007-0120)
26. **CONDITION 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 the result of a complaint that rises to the level of a violation of the permit conditions, (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#2007-0120)

27. **CONDITION ADDED BY STAFF:** The outdoor dining area shall be closed and cleared of all customers by 11:00pm daily and shall be cleaned at the close of each business day that it is in use. Outdoor dining areas shall not include advertising signage, including on umbrellas. (P&Z)
28. **CONDITION ADDED BY STAFF:** 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)
29. **CONDITION ADDED BY STAFF:** Supply deliveries, loading and unloading activities shall not occur between the hours of 11:00 pm and 7:00 am. (T&ES)