

CONSENT AGENDA ITEM

If no one asks to speak about this case prior to the hearing, it will be approved without discussion as part of the Consent Agenda.

Docket Item #4
SPECIAL USE PERMIT # 2007-0120

Planning Commission Meeting
December 4, 2007

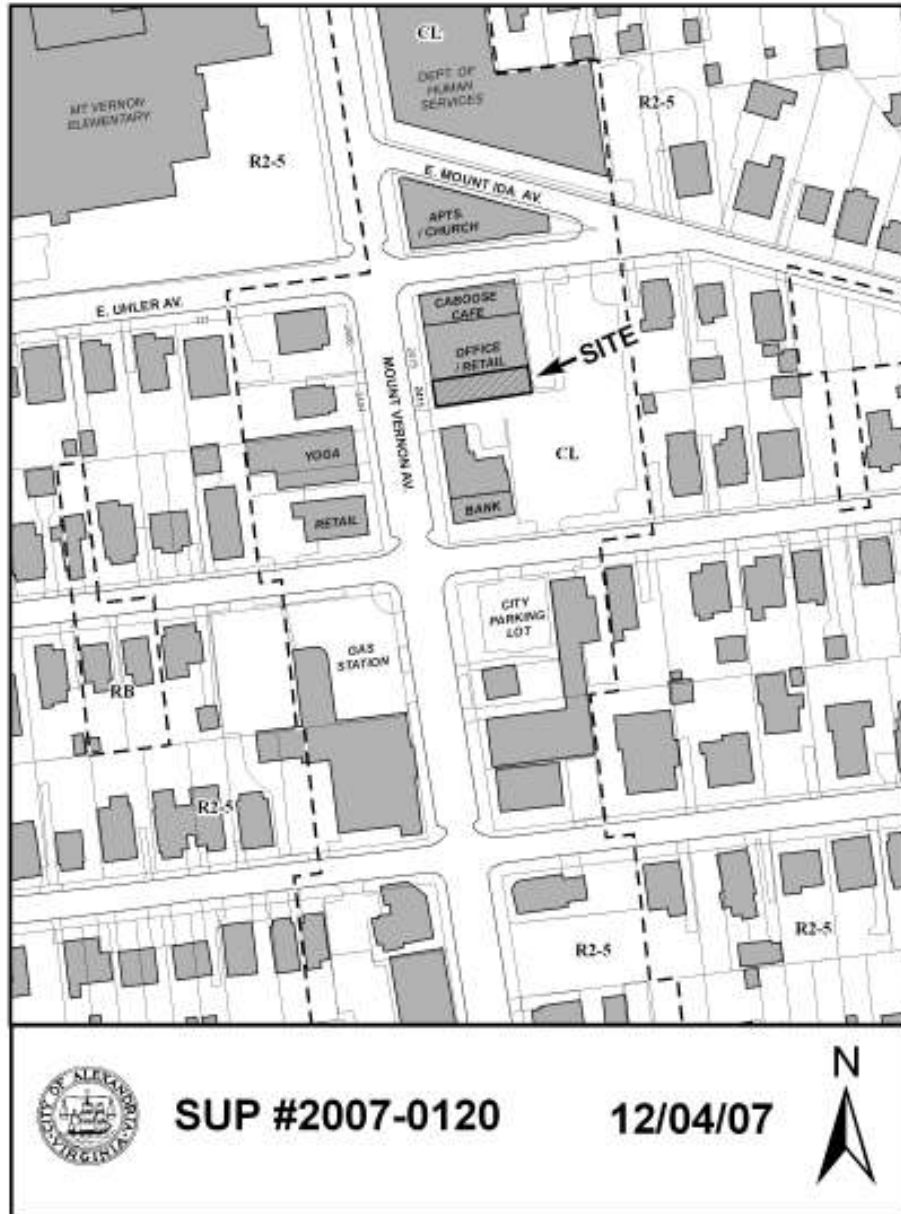
ISSUE: Consideration of a request for a special use permit to operate a wine and cheese bar with off premise alcohol.

APPLICANT: Phillippa Jill Erber

LOCATION: 2411 Mt. Vernon Ave (Parcel Address: 2401 Mt Vernon Ave)

ZONE: CL/Commercial Low

STAFF RECOMMENDATION: Staff recommends **approval** subject to compliance with all applicable codes and ordinances and the recommended permit conditions found in Section III of this report.



I. DISCUSSION

REQUEST

The applicant, Phillippa Jill Erber, requests special use permit approval for the operation of a wine and cheese bar with off premises sale of beer and wine located at 2411 Mount Vernon Avenue.

SITE DESCRIPTION

The subject property is one lot of record with 230 feet of frontage on Mount Vernon Avenue, 195 feet of depth and a total lot area of 44,943 square feet. The site is developed with a multi-tenant commercial building. Access to the property is from Mount Vernon Avenue and East Oxford Avenue.

The surrounding area is occupied by a mix of commercial and residential uses. Immediately to the north is Wholistic Family Agape Ministries. To the south is a city parking lot. To the east are single family detached houses. To the west are a restaurant, Taqueria Poblano, Yoga In Daily Life, a landscaping business and a CPR training center.

BACKGROUND

The applicant operates a gourmet store at 2401 Mount Vernon Avenue, specializing in cheeses and wines. The store will operate at the new location at 2411 Mount Vernon Avenue in conjunction with the wine and cheese bar.

On September 21, 2007, staff granted Administrative Use Permit #2007-0007 for the operation of a wine and cheese bar with no off premises sale of alcohol. In the Mount Vernon Urban Overlay Zone restaurants may apply for an Administrative Use Permit in place of a Special Use Permit. The AUP allows restaurants to have up to 60 seats and standardized hours of 7:00 am to 10:00 pm, Sunday through Thursday and 7:00 am to 11:00 pm, Friday and Saturday. Administratively approved restaurants are allowed to serve beer and wine on premises, however, for off premises sales a Special Use Permit must be obtained.

The administratively approved restaurant has not yet opened; the applicant continues to operate the gourmet store at the original location with no complaints or violations.



PROPOSAL

The applicant proposes to expand the existing retail wine and cheese gourmet store. The expansion will include the addition of 35 seats and food and wine table service. The type of food that will be served is cheese plates, antipasto plates, fondue, quiche and Panini sandwiches. Details of the proposed expansion are as follows:

Hours: Tuesday – Friday, 11:00 am – 9:00 pm
Saturday, 8:00 am – 9:00 pm
Sunday, 12:00 pm – 6:00 pm

Number of seats: 35

Alcohol: On-premises table service; off-premise sales.

Noise: No undue noise impacts anticipated

Trash/Litter: Trash will be collected twice a week

PARKING

According to Section 8-200(A)(8) of the Zoning Ordinance, a restaurant requires one parking space for every four seats. A restaurant with 35 seats will be required to provide nine off-street parking spaces.

The subject property has a parking lot in the rear that provides 25 parking spaces for the exclusive use of the shops in the 2400 block of Mount Vernon Avenue. In addition there are 65 spaces in the lot behind the subject property that are available in the evenings and on weekends.

Staff counted available street parking at 3:15 on a weekday afternoon and found the following: 4 spaces on the east side of the 2400 block of Mount Vernon Avenue and 3 spaces on the west side, 6 spaces on East Oxford Avenue and 2 spaces on East Uhler Avenue.

ZONING/MASTER PLAN DESIGNATION

The subject property is located in the CL/Commercial Low zone. Section 4-103(M) of the Zoning Ordinance allows a restaurant in the CL zone only with a special use permit.

The subject property is also governed by the Mount Vernon Urban Overlay Zone. Section 6-607(C)(4)(g) requires restaurants that wish to provide off premises sales of beer and wine to obtain a SUP.

The proposed use is consistent with the Potomac West Small Area Plan chapter of the Master Plan which designates the property for small scale retail and service uses.

II. STAFF ANALYSIS

Staff supports the expansion of a prominent, successful business in Del Ray. The restaurant component will compliment the established retail store and draw more shoppers to the many shops and services offered in Del Ray.

Staff has heard concerns from citizens about the lack of available parking in Del Ray, especially in the evenings when residents return from work. Staff feels that the availability of the larger lot in the evenings will reduce competition for on-street parking when resident demand is highest.

Although the applicant anticipates being open from 8:00 am to 9:00 pm only on Saturdays, with fewer hours the rest of the week, staff has placed a condition allowing extended hours to provide greater flexibility for the applicant.

With the following conditions, staff recommends approval of the special use permit.

III. RECOMMENDED CONDITIONS

Staff recommends **approval** subject to compliance with all applicable codes and ordinances and the following conditions:

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)
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)
3. The applicant shall post the hours of operation at the entrance of the business. (P&Z)
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)
5. Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys, or storm sewers. (T&ES)
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)

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)
8. 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)
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)
10. 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)
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)
12. 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 containers which does not allow invasion by animals. No trash and debris shall be allowed to accumulate on site outside of those containers. (T&ES)
13. 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)
14. At such time that a shared parking program has been adopted by the City Council, the applicant shall participate in the program. (P&Z)
15. 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)

16. 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)
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.
18. The number of seats shall be limited to 40 seats with no more than 16 outdoor seats. (P&Z)
19. No food, beverages, or other material shall be stored outside. (P&Z)
20. The applicant shall conduct employee training sessions on a 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)
21. Beer and wine table service and off-premise alcohol sales are permitted. (P&Z)
22. Provide a menu or list of foods to be handled at this facility to the Health Department prior to opening. (Health)
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)
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)
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 750 ml or 25.4 ounces. Fortified wine (wine with an alcohol content of 14% or more by volume) may not be sold. (Police)

26. 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)

STAFF: Richard Josephson, Acting Director, Department of Planning and Zoning;
Richard Bray, Urban Planner.

Staff Note: In accordance with section 11-506(c) of the zoning ordinance, construction or operation shall be commenced and diligently and substantially pursued within 18 months of the date of granting of a special use permit by City Council or the special use permit shall become void.

IV. CITY DEPARTMENT COMMENTS

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

Transportation & Environmental Services:

- R-1. Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys, or storm sewers. (T&ES)
- R-2. 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)
- R-3. All loudspeakers shall be prohibited from the exterior of the building and no amplified sounds shall be audible at the property line. (T&ES)
- R-4. 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)
- R-5. 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)
- R-6. 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)
- R-7. 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)
- C-1. The applicant shall comply with the City of Alexandria's Noise Control Code, Title 11, Chapter 5, which sets the maximum permissible noise level as measured at the property line.

- C-2. The applicant shall comply with the City of Alexandria's Solid Waste Control, Title 5, Chapter 1, which sets forth the requirements for the recycling of materials (Sec. 5-1-99).

Code Enforcement:

- F-1 The current use is classified as **M**; the proposed use is **A-2**. Change of use, in whole or in part, will require a certificate of use and occupancy (USBC 116.2) and compliance with USBC 116.1 including but not limited to: limitations of exit travel distance, emergency and exit lighting, a manual fire alarm system, and accessibility for persons with disabilities.
- C-1 Prior to the application for new Certificate of Occupancy, the applicant shall submit a building permit for a change of use. Drawings prepared by a licensed architect or professional engineer shall accompany the permit application. These plans shall show provide existing conditions, construction type data, and a plot plan. In addition, these plans shall show proposed conditions and provide data by the design professional which details how the proposed use will comply with the current edition of the Virginia Uniform Statewide Building Code for the new use in the area of structural strength, means of egress, passive and active fire protection, heating and ventilating systems, handicapped accessibility and plumbing facilities.
- C-2 A Certificate of occupancy shall be obtained prior to any occupancy of the building or portion thereof, in accordance with USBC 116.1.
- C-3 Required exits, parking, and accessibility within the building for persons with disabilities must comply with USBC Chapter 11. Handicapped accessible bathrooms shall also be provided.
- C-4 A fire prevention code permit is required for the proposed operation. An egress plan showing fixture location, aisles and exit doors shall be submitted for review with the permit application.
- C-5 The following code requirements apply where food preparation results in the development of grease laden vapors:
- (a) All cooking surfaces, kitchen exhaust systems, grease removal devices and hoods are required to be protected with an approved automatic fire suppression system.
 - (b) A grease interceptor is required where there is drainage from fixtures and equipment with grease-laden waste located in food preparation areas of restaurants. Food waste grinders can not discharge to the building drainage system through a grease interceptor.

- C-6 A rodent control plan shall be submitted to this office for review and approval prior to occupancy. This plan shall consist of the following:
 - (a) Measures to be taken to control the placement of litter on site and the trash storage and pickup schedule.
 - (b) How food stuffs will be stored on site.
 - (c) Rodent baiting plan.
- C-7 Alterations to the existing structure must comply with the current edition of the Uniform Statewide Building Code (USBC).
- C-8 Additions and alterations to the existing structure and/or installation and/or altering of equipment therein requires a building permit (USBC 108.1). Five sets of plans, bearing the signature and seal of a design professional registered in the Commonwealth of Virginia, must accompany the written application. The plans must include all dimensions, construction alterations details, kitchen equipment, electrical, plumbing, and mechanical layouts and schematics.

Health Department:

- C-1 An Alexandria Health Department Permit is required for all regulated facilities. Permits are not transferable.
- C-2 Permits must be obtained prior to operation.
- C-3 Five sets of plans must be submitted to and approved by this department prior to construction. Plans must comply with the Alexandria City Code, Title 11, Chapter 2, Food and Food Establishments. There is a \$135.00 fee for review of plans for food facilities.
- C-4 Certified Food Managers must be on duty during all hours of operation.
- R-1 Provide a menu or list of foods to be handled at this facility to the Health Department prior to opening.

Police Department:

- R-1 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.
- R-2 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.
- F-1 The applicant is seeking an "ABC On" and "ABC Off" license. The Police Department has no objections to either license subject to the following conditions or alcohol sold off premise:

1. 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 750 ml or 25.4 ounces. Fortified wine (wine with an alcohol content of 14% or more by volume) may not be sold.
2. That the SUP is reviewed after one year.

SUP #2007-0120
2411 Mt. Vernon Ave

**REPORT ATTACHMENTS
AVAILABLE IN THE PLANNING AND ZONING OFFICE**