

City of Alexandria, Virginia
Department of Planning & Zoning

SPECIAL USE PERMIT CERTIFICATE

Article XI, Division A, Section 11-510 of the 1992 Zoning Ordinance of the City of Alexandria, Virginia requires that you display this Special Use Permit in a conspicuous and publicly accessible place. A copy of the list of conditions associated with the special use permit shall be kept on the premises and made available for examination by the public upon request.

Special Use Permit #2023-00101

Approved by Planning and Zoning: December 28, 2023

Permission is hereby granted to: Benyay's LLC

to use the premises located at: 1028 King Street

for the following purpose: see attached report

It is the responsibility of the Special Use Permit holder to adhere to the conditions approved by City Council. The Department of Planning and Zoning will periodically inspect the property to identify compliance with the approved conditions. If any condition is in violation, the permit holder will be cited and issued a ticket. The first violation carries a monetary fine. Continued violations will cause staff to docket the special use permit for review by City Council for possible revocation.

December 28, 2023

Date

Karl Moritz (by T. LaColla)

Karl Moritz, Director
Department of Planning and Zoning

DATE: December 28, 2023

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 #2023-00101
Administrative Review for Change of Ownership
Site Use: Restaurant
Applicant: Benyay's LLC
Location: 1028 King Street
Zone: KR / King Street Urban Retail

Request

Special Use Permit #2023-00101 is a request to change ownership of a restaurant from Lori Leetz & Ann Feeley to Benyay's LLC. The applicant will begin to operate the business as Ben'yays and will specialize in New Orleans-style theme pastries, benyays, coffee-based drinks, wine, and cheese. No other changes are proposed.

Background

The subject site has served as a restaurant use for the past 30 years. 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 Special Use Permit. In January 1992, City Council approved Special Use Permit #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 Special Use Permit #2001-00127 for a review of the restaurant operations and a change of ownership to Nickell's & Scheffler, Ltd. Most recently, in staff administratively approved Special Use Permit #2017-00008 for a change of ownership from Nickell's & Scheffler, Ltd to Lori Leetz & Ann Feeley, who began to operate a restaurant under the trade name Lori's Table.

Parking

The subject property is located within the Central Business District (CBD). Pursuant to Section 8-300 (B) of the Zoning Ordinance, restaurants located within the CBD are exempt from ordinary parking requirements.

Community Outreach

Public notice was provided through eNews, via the City's website, and by posting a placard on the site. In addition, the Old Town Civic Association was sent an e-mail with information about the current application.

On December 11, Staff received one comment sent on behalf of the Old Town Civic Association (OTCA) in which it was expressed that they had no issues regarding the change of ownership request but had expressed concerns regarding noncompliant signage observed at the existing business. In response, a zoning inspector was dispatched to alert the existing owners of the noncompliance and require that the noncompliant signage be removed. Staff ensured the OTCA representative that any signage associated with the new business must comply with the Zoning Ordinance and receive proper permitting. No other comments or concerns were received.


Staff Action

Staff does not object to the change of ownership request as the subject restaurant has operated in its current location for many years with no issues or negative impacts in a commercial corridor where many other restaurants currently operate with similar success. Special Use Permit conditions have been carried over from Special Use Permit #2017-00008. However, several conditions have been amended, added, or deleted in order to reflect the current standard Special Use Permit conditions for a restaurant. This includes amendments to existing Conditions #2, #4, #5, #9, #10, #11, #12, #13, #15, #22, #27, and #31, new Condition #34, as well as deleted Conditions #3 and #26.

Staff hereby approves the Special Use Permit request.

ADMINISTRATIVE ACTION - DEPARTMENT OF PLANNING AND ZONING:

Date: December 28, 2023
Action: Approved



Tony LaColla, Division Chief

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

CONDITIONS OF SPECIAL USE PERMIT # 2023-00101

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. **CONDITION AMENDED BY STAFF:** The maximum number of indoor Seating at the restaurant shall comply with the state building code ~~be provided inside for no more than 24 patrons.~~ (P&Z) (SUP #2548)
3. **CONDITION DELETED 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) (SUP2017-00008)
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.~~ (P&Z) (SUP2017-00008)
5. **CONDITION AMENDED BY STAFF:** No food, beverages, or other material shall be stored outside, with the exception of materials specified in other conditions. (P&Z) (SUP #2548)
6. Trash and garbage shall be stored inside or placed in sealed containers that do not allow odors to escape, invasion by animals, or leaking. 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. (P&Z) (T&ES) (SUP2017-00008)
7. Condition deleted. (SUP #2001-0127)
8. Condition deleted. (SUP2017-00008)
9. **CONDITION AMENDED BY STAFF:** 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~~ a 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 open to the public ~~in operation.~~ (P&Z) (SUP #2001-0127)
10. **CONDITION AMENDED BY STAFF:** ~~The dDelivery 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~~ operated and managed by the applicant are permitted. Such Delivery vehicles shall ~~must not be parked on public rights-of-way off-street when not in use.~~ (P&Z) (SUP #2001-0127)

11. **CONDITION AMENDED BY STAFF:** ~~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 a~~ All patrons must leave the premises by one hour after the closing hour. (P&Z) (SUP #2001-0127)
12. **CONDITION AMENDED BY STAFF:** ~~No~~ Indoor limited, live entertainment ~~shall be provided at the restaurant~~ 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 entertainment shall reflect the subordinate nature of the entertainment by featuring food service as well as the entertainment. (P&Z) (SUP #2001-0127)
13. **CONDITION AMENDED BY STAFF:** ~~On- and off premises alcohol service may be sales are permitted, consistent with a valid~~ in compliance with Virginia ABC requirements license; no off premises alcohol sales are permitted. (P&Z) (SUP2017-00008)
14. 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) (SUP2017-00008)
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) (SUP2017-00008)
16. The applicant shall require its employees who drive to work to use off-street parking. (P&Z) (SUP #2001-0127)
17. Condition deleted. (SUP2017-00008)
18. 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) (SUP2017-00008)
19. Condition deleted. (SUP2017-00008)
20. Condition deleted. (SUP2017-00008)
21. Condition deleted. (SUP2017-00008)
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 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) (~~SUP2017-00008~~)

23. 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) (SUP2017-00008)
24. 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) (SUP2017-00008)
25. 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) (SUP2017-00008)
26. **CONDITION DELETED 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) (SUP2017-00008)~~
27. **CONDITION AMENDED 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 about available resources ~~on establishing an employee transportation benefits program.~~ (P&Z) (~~SUP2017-00008~~)
28. 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) (SUP2017-00008)
29. Exterior power washing of the building shall not be completed using any kind of detergents. (P&Z) (SUP2017-00008)
30. Chemicals, detergents or cleaners stored outside the building shall be kept in an enclosure with a roof. (P&Z) (SUP2017-00008)
31. **CONDITION AMENDED BY STAFF:** If used cooking oil is stored outside, the ~~lid of the used cooking oil~~ drum shall be kept securely closed with (~~using~~ a bung – (a secure

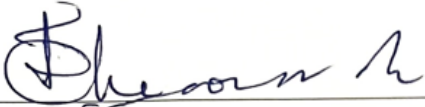
stopper that seals the drum) when not receiving used oil. The drum shall be placed on secondary containment and situated under cover to prevent rainwater from falling on it. (P&Z) (~~SUP2017-00008~~)

32. 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) (SUP2017-00008)
33. Supply deliveries, loading, and unloading activities shall not occur between the hours of 11:00pm and 7:00am. (P&Z) (SUP2017-00008)
34. **CONDITION ADDED BY STAFF:** The applicant shall contact the T&ES parking planner at 703.746.4025 for information about applying to participate in the Discount Parking Program for Employees of Old Town Businesses (or other similar program if one is created) that offers discounted parking at select City parking facilities on evenings and weekends.

SUP2023-00101
1028 King Street

STATEMENT OF CONSENT

The undersigned hereby agrees and consents to the attached conditions of this Special Use Permit #2023-00101. The undersigned also hereby agrees to obtain all applicable licenses and permits required for the restaurant at 1028 King Street.



Applicant - Signature

12/29/2023

Date

Theodoros Gidey

Applicant - Printed

12/29/2023

Date