

DATE: April 28, 2010

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

FROM: Nathan Randall, Planner
Department of Planning and Zoning

SUBJECT: Special Use Permit #2010-0021
Administrative Review for Change of Ownership
Site Use: Restaurant
Applicant: Rejnaj of Mount Vernon, Inc.
Location: 3402 Mt. Vernon Ave
Zone: CG/Commercial General

Request

Special Use Permit #2010-0021 is a request to change ownership of Popeye's restaurant from Nathaniel Foy of Arlandria Associates to Rejnaj of Mt. Vernon, Inc. No changes to the operation are proposed.

Background

On June 13, 1992, City Council granted Special Use Permit #1302-B to John J. Meilert t/a Moo Inc for the operation of a Popeye's restaurant. On July 28, 2003 staff administratively approved SUP#2003-0067 to change ownership of the business to Nathaniel Foy of Arlandria Associates.

The restaurant has been closed since December 2009. Staff has not received any complaints from residents or adjacent businesses that would require staff to docket the special use permit for public hearing.

Parking

The Zoning Ordinance requires the restaurant to provide 19 parking spaces, or one parking space for every four restaurant seats. The applicant provides more than the required number of parking spaces on site.

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' Association, the Del Ray Business Association, and the Arlandria Civic Association were sent e-mails with information about the current application. Staff has not received any complaints from residents or adjacent businesses that would require staff to docket the special use permit for public hearing.

Staff Action

Since the prior change of ownership case, signage guidelines for this portion of Mount Vernon Avenue have been developed which encourage monument signs. Staff will continue to work with the applicant to replace the existing pole sign with an attractive monument-style sign.

Staff does not object to the change of ownership and hereby approves the Special Use Permit request.

ADMINISTRATIVE ACTION - DEPARTMENT OF PLANNING AND ZONING:

Date: May 10, 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 # 2010-0021

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. That no more than 76 seats be provided for the use of patrons. (P&Z) (SUP #1302-A)
2. That at least four (4) trash containers be located in the parking area for the use of patrons. The containers shall not be permitted to overflow, and the areas around them must be kept clean. (P&Z)(SUP1302-A)
3. **CONDITION AMENDED BY STAFF:** That litter on the site and on public rights-of-way and spaces adjacent to or within ~~400~~ 75 feet of the premises be picked up at least twice a day, and more often if necessary, to prevent an unsightly and unsanitary accumulation, on each day that the business is open to the public. (P&Z) (T&ES) (~~SUP #1302-A~~)
4. No food, beverages, or other material shall be stored outside. (P&Z) (SUP#2003-0067)
5. 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 does not allow invasion by animals. No trash and debris shall be allowed to accumulate on site outside of those containers. (P&Z) (SUP#2003-0067)
6. That trash and garbage be collected daily when the business is open. (P&Z) (SUP #1302-A)
7. That the special use permit be granted to the applicant only or to any corporation in which the applicant has a controlling interest. (P&Z) (SUP#1302-B)
8. That signs be constructed to the satisfaction of the Director of Planning and Zoning after consultation with the owner and the neighborhood.(CC) (SUP#1302-B)
9. That the hours during which the business is open to the public be restricted to the following: (P&Z) (SUP1302-B)

Days of the Week

Hours

Monday - Friday

6:00 A.M. to 12:00 Midnight

Friday and Saturday

6:00 A.M. to 1:00 A.M.

Sunday

7:00 A.M. to 11:00 P.M.

10. **CONDITION AMENDED BY STAFF:** All loudspeakers shall be prohibited from the exterior of the building and no amplified sounds shall be audible at the property line. (T&ES) (P&Z) (SUP2003-00067)
11. **CONDITION AMENDED BY STAFF:** That there be No exterior public telephones shall be located on-site. (PC) (Police) (SUP#1302-B)
12. Kitchen equipment shall not be cleaned outside, nor shall any cooking residue be washed into the streets, alleys or storm sewers. (T&ES) (SUP#2003-0067)
13. **CONDITION AMENDED BY STAFF:** The applicant shall require its employees who drive to work 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#2003-0067)
14. The applicant shall contact the Crime Prevention Unit of the Alexandria Police Department for a security survey and robbery awareness program for employees. (Police) (SUP#2003-0067)
15. No live entertainment shall be provided at the restaurant. (P&Z) (SUP#2003-0067)
16. No alcohol service shall be permitted. (P&Z) (SUP#2003-0067)
17. The applicant shall post the hours of operation at the entrance to the restaurant. (P&Z) (SUP#2003-0067)
18. **CONDITION AMENDED BY STAFF:** The applicant shall control cooking odors, and smoke and any other air pollution from the property to 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#2003-0067)
19. **CONDITION ADDED BY STAFF:** No delivery service shall be offered by the restaurant. (P&Z)
20. **CONDITION ADDED BY STAFF:** Meals ordered before the closing hour may be served, but no new patrons may be admitted after the closing hour, and all patrons must leave by one hour after the closing hour. (P&Z)
21. **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 special use permit provisions and requirements. (P&Z)

22. **CONDITION ADDED BY STAFF:** Supply deliveries, loading, and unloading activities shall not occur between the hours of 11:00pm and 7:00am. (T&ES)
23. **CONDITION ADDED BY STAFF:** The applicant shall provide a menu or list of foods to be handled at this facility to the Health Department prior to opening. (Health)
24. **CONDITION ADDED BY STAFF:** The Director of Planning and Zoning shall review the special use permit 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 a 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)

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) (SUP2003-00067)
- R-2 **CONDITION AMENDED BY STAFF:** The applicant shall control **cooking** odors, ~~and smoke, and any other air pollution~~ from the ~~property to 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) (SUP2003-00067)
- R-3 **CONDITION AMENDED BY STAFF:** All **loudspeakers shall be prohibited from the exterior of the building and** ~~No~~ amplified sounds shall be audible at the property line. (T&ES) (P&Z) (SUP2003-00067)
- R-4 **CONDITION ADDED BY STAFF:** Supply deliveries, loading, and unloading activities shall not occur between the hours of 11:00pm and 7:00am. (T&ES)
- R-5 **CONDITION AMENDED BY STAFF:** 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)
- R-6 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)
- C-1 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). (T&ES)
In order to comply with this code requirement, the applicant shall provide a completed Recycling Implementation Plan (RIP) Form within 60 days of City Council approval. Contact the City's Recycling Program Coordinator at (703) 519-3486, or via e-mail at commercialrecycling@alexandriava.gov, for information about completing this form. (T&ES)
- C-2 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. (T&ES)

Code Enforcement:

- C-1 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. (USBC 2801)
- C-2 A new 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-3 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.

Health Department:

- C-1 An Alexandria Health Department Permit is required for all regulated facilities.
- C-2 Permits are non-transferable.
- C-3 This facility must meet current Alexandria City Code requirements for food establishments. Contact Environmental Health at 703-838-4400 Ext. 314 to arrange for a "change of ownership" inspection.
- C-4 If changes to the facility are to be done, 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 \$200.00 fee for review of plans for food facilities.
- C-5 Permits must be obtained prior to operation.
- C-6 The facility must comply with the Alexandria City Code, Title 11, Chapter 10, Smoking Prohibitions.
- C-7 Certified Food Managers must be on duty during all hours of operation.

- C-8 Restrooms, including those in common areas, serving the restaurant, are to meet Alexandria City Code, Title 11, Chapter 2 requirements.
- F-1 This facility is currently closed.
- R-1 Provide a menu or list of foods to be handled at this facility to the Health Department prior to opening.

Parks and Recreation:

- F-1 No Comments

Police Department:

- R-1 The new applicant is to contact the Community Relations Unit of the Alexandria Police Department at 703-838-4520 regarding a security assessment for the business.
- R-2 The new applicant is to contact the Community Relations Unit of the Alexandria Police Department at 703-838-4520 regarding robbery readiness training for all employees.
- R-2 There shall be no exterior public telephones located on-site.
- F-1 The applicant is not seeking an A.B.C. permit. The Police Department concurs.
- F-2 The Police Department has no objections to the change of ownership.

SUP #2010-0021
3402 Mount Vernon Avenue

STATEMENT OF CONSENT

The undersigned hereby agrees and consents to the attached conditions of this Special Use Permit #2010-0021. The undersigned also hereby agrees to obtain all applicable licenses and permits required for the restaurant at 3402 Mount Vernon Avenue.

Ernest D. Robinson

Applicant - Signature

5/12/10

Date

Ernest D. Robinson

Applicant - Printed

5/12/10

Date

Sup 2010-0024



APPLICATION SPECIAL USE PERMIT

ADMINISTRATIVE CHANGE OF OWNERSHIP OR MINOR AMENDMENT

☒ Change of Ownership ☐ Minor Amendment

[must use black ink or type]

PROPERTY LOCATION: 3402 Mt. VERNON AVE., ALEXANDRIA, VA 22305

TAX MAP REFERENCE: _____ **ZONE:** _____

APPLICANT

Name: REJNAJ of Mt. VERNON, INC.

Address: 12150 Tech Road Silver Spring, Md. 20904

PROPERTY OWNER

Name: 3190 MTV LLC

Address: PO Box 1105 Great Falls, VA 22066

SITE USE: FAST FOOD RESTAURANT

☐ **THE UNDERSIGNED** hereby applies for a Special Use Permit for **Change in Ownership**, in accordance with the provisions of Article XI, Division A, Section 11-503 (5)(f) of the 1992 Zoning Ordinance of City of Alexandria, Virginia.

☐ **THE UNDERSIGNED**, having read and received a copy of the special use permit, hereby agrees to comply with all conditions of the current special use permit, including all other applicable City codes and ordinances.

☐ **THE UNDERSIGNED** hereby applies for a Special Use Permit for **Minor Amendment**, in accordance with the provisions of Article XI, Division A, Section 11-509 and 11-511 of the 1992 Zoning Ordinance of City of Alexandria, Virginia.

☒ **THE UNDERSIGNED**, having obtained permission from the property owner, hereby requests this special use permit. The undersigned also attests that all of the information herein required to be furnished by the applicant are true, correct and accurate to the best of his/her knowledge and belief.

REJNAJ of Mt. VERNON, INC.

Print Name of Applicant or Agent

12150 Tech Road

Mailing/Street Address

Silver Spring, Md 20904

City and State

Zip Code

Ernest Robinson Controller/CFO

Signature

301-625-5920 301-625-0045

Telephone #

Fax #

ERobinson@JANJER.COM

Email address

3/22/10

Date

DO NOT WRITE IN THIS SPACE - OFFICE USE ONLY

Application Received: _____

Fee Paid: \$ _____

Legal advertisement: _____

ACTION - PLANNING COMMISSION _____

ACTION - CITY COUNCIL: _____

The following information must be furnished to the Department of Planning and Zoning to determine if the current use conducted on the premises complies with the special use permit provisions and all other applicable codes and ordinances.

1. Please describe prior special use permit approval for the subject use.

Most recent Special Use Permit # ~~1302-B~~ 2003-0067

Date approved: 7 1 28 1 03
month day year

Name of applicant on most recent special use permit NATHANIEL FOY OF ARLANDRIA ASSOCIATES

Use FAST FOOD RESTAURANT

2. Describe below the nature of the existing operation in detail so that the Department of Planning and Zoning can understand the nature of the change in operation; include information regarding type of operation, number of patrons served, number of employees, parking availability, etc. (Attach additional sheets if necessary.)

THE BUSINESS WILL CONTINUE TO OPERATE AS A POPEYE'S
CHICKEN & BISCUIT RESTAURANT OFFERING FOOD FOR EATING OR TAKE
OUT VIA COUNTER OR DRIVE THRU SALE.

Special Use Permit # 2010-0024

3. Describe any proposed changes to the business from what was represented to the Planning Commission and City Council during the special use permit approval process, including any proposed changes in the nature of the activity, the number and type of patrons, the number of employees, the hours, how parking is to be provided for employees and patrons, any noise emitted by the use, etc. (Attach additional sheets if necessary)

No changes planned.

Special Use Permit # 2010-0024

4. Is the use currently open for business? ☐ Yes ☒ No

If the use is closed, provide the date closed.

12 / 01 / 09
month day year

5. Describe any proposed changes to the conditions of the special use permit:

NONE

6. Are the hours of operation proposed to change? ☐ Yes ☒ No

If yes, list the current hours and proposed hours:

Current Hours:

Proposed Hours:

7. Will the number of employees remain the same? ☒ Yes ☐ No

If no, list the current number of employees and the proposed number.

Current Number of Employees:

Proposed Number of Employees:

8. Will there be any renovations or new equipment for the business? ☒ Yes ☐ No

If yes, describe the type of renovations and/or list any new equipment proposed.

Bringing in new equipment to replace equipment removed
by previous tenant.

9. Are you proposing changes in the sales or service of alcoholic beverages? ☐ Yes ☒ No

If yes, describe proposed changes:

10. Is off-street parking provided for your employees? ☒ Yes ☐ No
If yes, how many spaces, and where are they located?

Share 29 spaces with customers.

11. Is off-street parking provided for your customers? ☒ Yes ☐ No
If yes, how many spaces, and where are they located?

Share 29 spaces with customers.

12. Is there a proposed increase in the number of seats or patrons served? ☐ Yes ☒ No
If yes, describe the current number of seats or patrons served and the proposed number of seats and patrons served. For restaurants, list the number of seats by type (i.e. bar stools, seats at tables, etc.)

Current:

Proposed:

13. Are physical changes to the structure or interior space requested? ☐ Yes ☒ No
If yes, attach drawings showing existing and proposed layouts. In both cases, include the floor area devoted to uses, i.e. storage area, customer service area, and/or office spaces.

14. Is there a proposed increase in the building area devoted to the business? ☐ Yes ☒ No
If yes, describe the existing amount of building area and the proposed amount of building area.

Current:

Proposed:

15. The applicant is the (check one) ☐ Property owner ☒ Lessee
____ other, please describe: _____

16. The applicant is the (check one) ☒ Current business owner ☐ Prospective business owner
____ other, please describe: _____

17. Each application shall contain a clear and concise statement identifying the applicant, including the name and address of each person owning an interest in the applicant and the extent of such ownership interest. If the applicant, or one of such persons holding an ownership interest in the applicant is a corporation, each person owning an interest in excess of ten percent (10%) in the corporation and the extent of interest shall be identified by name and address.

For the purpose of this section, the term "ownership interest" shall include any legal or equitable interest held in the subject real estate at the time of the application. If a nonprofit corporation, the name of the registered agent must be provided.

Please provide ownership information here:

JAN Strompt 12150 Tech Road Silver Spring, Md. 20904 50%

JEROME Friedlander 12150 Tech Road Silver Spring, Md. 20904 50%