

City of Alexandria, Virginia

MEMORANDUM

DATE: OCTOBER 3, 2023

TO: CHAIR NATHAN MACEK
AND MEMBERS OF THE PLANNING COMMISSION

FROM: KARL W. MORITZ, DIRECTOR
DEPARTMENT OF PLANNING & ZONING

SUBJECT: DOCKET ITEM #5 – SUP #2023-00060
2000 MOUNT VERNON AVENUE –
EVENING STAR CAFÉ AND HIFI TEX-MEX BBQ

In this memorandum, staff responds to the applicant's proposed conditions changes submitted by the applicant's attorney on October 2, 2023.

Condition 23

Applicant's proposed amendment (*underlined*): The applicant shall control cooking odors, smoke and any other air pollution from operations at the site and prevent them from becoming a nuisance to neighboring properties as determined by the Department of Transportation & Environmental Services. *In order to mitigate impacts of the smoke from the smoker, the applicant shall relocate the smoker away from the western property line to be adjacent to the building, extend the exhaust pipe to the height of the main roof of the building, and install a fan at the top of the exhaust pipe, and/or take other measures as may be necessary to meet the "Good" range for Particulate Matter (PM 2.5 and PM 10), as established within the Pollutant-Specific Sub-indices and Cautionary Statements for Guidance on the Air Quality Index published by the Environmental Protection Agency.*

Staff response: Staff does not support the amendment to Condition #23 as proposed by the applicant. Ultimately, even if the applicant could mitigate smoke and odors, which staff does not believe is sufficient with this proposal, the outdoor smokers would still not comply with Section 4-107(A) of the Zoning Ordinance, requiring that all commercial operations take place in an enclosed building. Violation of this section would result in the issuance of continued enforcement citations.

Based on the proximity to nearby residences, staff does not believe there is a method, including those proposed by the applicant, by which the smokers can remain outdoors without smoke byproducts continuing to be a health and odor nuisance for residents at neighboring properties. Although moving the smoker 10 feet and raising the stack may

slightly improve the situation by dispersing the smoke and odor a bit more, there will still be occurrences throughout the year, depending on wind direction and air quality, that will impact neighboring residential properties.

In addition to not mitigating smoke and odor impacts, a taller exhaust pipe may not comply with the combined requirements of the Zoning Ordinance, Fire Prevention Code and the Mechanical Code. The maximum building height in the zone is 35 feet. According to the Fire Prevention Code, Sec 308.1.4, open-flame cooking devices require that Charcoal burners and other open-flame cooking devices shall not be operated on combustible balconies or within 10 feet of combustible construction. The Mechanical Code, Sec 501.3.1, requires that given the nature of the smoke exhaust, the exhaust vent termination point must be 10 or 30 ft from the property line and the vent must be extended to at least 24 inches taller than anything within a 10-foot radius of the vent pipe.

Condition 26

Applicant's proposed amendment (underlined and strikethrough): *~~Live performances shall not be permitted in the outdoor seating area or the adjacent gourmet shop. Outdoor limited live entertainment may occur Wednesday through Saturday between the hours of 6 pm to 10 pm in the area identified on Figure 8 in the staff report. Any amplification of the live entertainment must be controlled by staff through the restaurant's sound system to ensure that the volume is in compliance with the noise ordinance.~~*

Staff response: Staff does not support the amendment to Condition #26 as proposed by the applicant. Based on the proximity of the proposed outdoor live entertainment to nearby residences and the repeated complaints regarding noise stemming from live performances at the business, staff does not believe the subject site is an appropriate location to host outdoor live performances.

Condition 31

Applicant's proposed deletion (strikethrough): *~~The applicant shall diligently pursue additional parking to the satisfaction of the Directors of Planning & Zoning and Transportation and Environmental Services.~~*

Staff response: Staff supports the proposed deletion of Condition #31 as proposed by the applicant. The business has an existing parking reduction which reduces their required off-street parking to zero spaces and the site is located within walking distance to many residences and is located close to a variety of modes of public transportation.

Condition 37

Applicant's proposed amendment (underlined): All ground level windows fronting along Mt. Vernon Ave immediately behind the sidewalk shall remain transparent. The placement or construction of items that block the visibility at eye level 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.

Staff response: Staff supports the proposed amendment to Condition #37 as proposed by the applicant. The proposed amendment would require that the applicant maintain unobstructed windows along the Mount Vernon Avenue commercial corridor to promote a sense of pedestrian-scale vitality while allowing the applicant to maintain the light filtering window films along and facing Howell Avenue which they have had in place for many years and mitigate the effects of interior lighting on nearby residences.

Condition 44

Applicant's proposed amendment (underlined): The temporary trailer shall be permitted at the site for two years after Special Use Permit approval and until October 13, 2025, with an opportunity to increase the term for an additional three years through an Administrative Special Use Permit.

Staff response: Staff does not support the amendment to Condition #26 as proposed by the applicant given that the purpose of the temporary trailer (i.e. shelter and refrigeration of kegs and associated beverage service equipment) is something that can be reasonably incorporated into the building(s) located on-site within two years. Furthermore, the presence of the trailer on-site does not contribute to the activation of public facing spaces or to foster a pedestrian sense of vitality.

Condition 45

Applicant's proposed amendment (underlined and strikethrough): The applicant shall ensure that all vehicles associated with supply deliveries, loading, and unloading activities ~~shall~~ park in the parking lot behind 2010 -2016 Mt. Vernon Ave or in the designated on-street loading zones in front of 2001 – 2003 ~~Mount~~Mt. Vernon Avenue or 205 E. Howell Ave.

Staff response: Staff supports the proposed amendment to Condition #45 as proposed by the applicant. The property located at 2010-2016 Mount Vernon Avenue is also partially owned by the applicant in the current request and would provide additional flexibility in terms of location from which loading/unloading operations could occur and eliminate the previous issues with delivery vehicles blocking access to nearby residences. The addition of 2010-2016 Mount Vernon Avenue as a permitted location for loading/unloading would not reduce the amount of required off-street parking for the businesses at 2010-2016 Mount Vernon Avenue.

Condition 46

Applicant's proposed addition (underlined): The Applicant shall identify a staff liaison and provide the name and cell phone number of the liaison to the adjacent neighbors to contact for any concerns associated with the operation of the uses subject to this Special Use Permit.

Staff response: Staff supports the proposed new Condition #46 as proposed by the applicant. A dedicated staff liaison would serve as a direct line of contact between the community and the business in the case there arise issues the applicant must address and mitigate in a timely fashion.