

City of Alexandria, Virginia

MEMORANDUM

DATE: JUNE 4, 2024

TO: CHAIR NATHAN MACEK
AND MEMBERS OF THE PLANNING COMMISSION

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

SUBJECT: DOCKET ITEM #6 – SUP #2024-00026
3410 MOUNT VERNON AVENUE (PARCEL ADDRESS: 3408 MOUNT
VERNON AVENUE)

This memorandum outlines condition changes that Chair Macek and Commissioner Lyle would like the commission to consider this evening.

Chair Macek’s proposed changes to Conditions 11b, 11d and 14c:

11. **CONDITION AMENDED BY THE PLANNING COMMISSION:** The outdoor dining area shall address the following:
- b. ~~Outdoor cooking facilities and host stands are not permitted, to include “s’mores” and cooking classes are is permitted without amplified sound and in accordance with the fire code. (PC)~~
 - d. ~~No~~The use of outdoor games shall be permitted ~~not to exceed the area depicted on the plan (Figure 2) and submitted with the application on April 2, 2024. The games shall be placed no closer than 65 feet from the shared residential property line and shall be placed on mats if ground mounted.~~ ancillary to the principal use as a restaurant. (PC) (SUP #2023-00025)-(PC)
14. **CONDITION AMENDED BY THE PLANNING COMMISSION: Music and Live Entertainment**
- c. ~~Any form of~~Outdoor live entertainment and/or the amplification of the human voice shall be prohibited in the outdoor dining area unless associated with an approved Noise Permit for music and sound amplification from the Department of Transportation & Environmental Services. is permitted. ~~The outdoor live entertainment may occur for a maximum of six hours and only within the time frames of 5 p.m. to 11 p.m. on Fridays; 11 a.m. to 11 p.m. on Saturdays; and 11 a.m. to 9 p.m. on Sundays and holidays.~~ during outdoor dining operating hours. The applicant shall email notice to the residents of Sanborn Place notifications of the

date and times of live entertainment events no less than one week in advance. The applicant shall also post live entertainment events on the business website. Live entertainment shall include, but is not limited to, live music of any type, DJ's, hosted game/trivia nights, movie nights, classes/workshops/meetings, and any such similar events. Live entertainment volume shall be the same decibel level as the background music and controlled only through the house system. The projection of live music and live entertainment from within the restaurant to the outdoor area via loudspeakers ~~or~~ through open doors and windows shall be prohibited at all times.(PC)

Commissioner Lyle's proposed changes to Conditions #10, 11b, 14b, 14c, 14d and 30:

10. **CONDITION AMENDED BY THE PLANNING COMMISSION:**~~Outdoor dining located on private property at a commercial complex is a permitted use in the CG zone. Zoning Ordinance Section 4-407 includes use limits and specifically states that uses cannot be conducted in a manner that would render it noxious or offensive by reason of noise. Given the history of violations related to this use and in order to comply with the Zoning Ordinance,~~ The outdoor dining area may be open to patrons from 11:00 a.m. to 11:00 12 a.m., Friday and Saturday and from 11:00 a.m. to 9:00 p.m., Sunday through Thursday and remain in compliance with the noise ordinance. The outdoor dining area shall be closed and cleared of all customers by 11:00 12 p.m. on Friday and Saturday and by 9:00 p.m., Sunday through Thursday and no new patrons may be admitted into the outdoor dining area after 10:00 p.m. on Friday and Saturday and 8:00 p.m. on Sunday through Thursday. The outdoor dining area shall be cleaned and washed by midnight 1 a.m. on Friday and Saturday and by 10:00 p.m. on Sunday through Thursday. Staff shall not use any form of amplified sound, including radios and Bluetooth speakers, while cleaning and washing the outdoor dining area. (PC) (SUP #2023-00025)(PC)
11. **CONDITION AMENDED BY THE PLANNING COMMISSION-:** The outdoor dining area shall address the following:
- b. Outdoor cooking facilities and host stands are not permitted., to include be limited to "s'mores" and cooking classes are is permitted without amplified sound and in accordance with the fire code. (PC)
14. **CONDITION AMENDED BY THE PLANNING COMMISSION: Music and Live Entertainment**
- b. Outdoor amplified music in the form of background music is permitted from 11 a.m. 4 p.m. to 11 10 p.m., Friday and Saturday and holidays and from 11 a.m. 4 p.m. to 9 8 p.m., Sunday through Thursday, consistent with the noise ordinance.
- c. Any form of ~~o~~Outdoor live entertainment and/or the amplification of the human voice shall be prohibited in the outdoor dining area unless associated with an approved Noise Permit for music and sound amplification from the Department of Transportation & Environmental Services. is permitted. The outdoor live entertainment may occur for a maximum of six four hours and only within the time frames of 5 4 p.m. to 11 10 p.m. on Fridays; 11 a.m. 4 p.m. to 11 10 p.m. on Saturdays; and 11 a.m. 4 p.m. to 9 p.m. on Sundays and holidays. The applicant

shall email notice to the residents of Sanborn Place notifications of the date and times of live entertainment events no less than one week in advance. The applicant shall also post live entertainment events on the business website. Live entertainment shall include, but is not limited to, live music of any type, DJ's, hosted game/trivia nights, movie nights, ~~classes/workshops/meetings~~, and any such similar events. Live entertainment volume shall be the same decibel level as the background music and controlled only through the house system. The projection of live music and live entertainment from within the restaurant to the outdoor area via loudspeakers ~~or~~ through open doors and windows shall be prohibited at all times. (PC)

- d. Should documented violations of the noise ordinance occur, which are not corrected immediately and constitute repeat violations, the applicant shall develop a noise mitigation plan to the satisfaction of the Director of Transportation & Environmental Services and the Director of Planning & Zoning. If a warning is issued and additional violations occur, the applicant shall lose these privileges after the third violation. (PC)

Staff comment for consideration for 14d: An individual SUP condition cannot be revoked; only an entire SUP.

30. The Director of Planning and Zoning shall review the Special Use Permit one year after it has been operational ~~for three months, six months, and nine months,~~ and then again every year for a total of three years and every three years thereafter for compliance with all conditions. ~~The Special Use Permit shall be docketed for review after one year, or sooner with 30 days notice. The Director of Planning and Zoning shall and may 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) or 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 to offset land use impacts not addressed in the City Code. (PC) (SUP#2023-00025)-(PC)~~