

# **Docket Item #5**

## **Hi/Fi Tex-Mex BBQ & Evening Star**

2000 Mount Vernon Avenue | SUP 2023-00060

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Planning Commission

October 3, 2023



# Site Context

- Located on Mount Vernon Avenue between East Windsor and East Howell Avenues.
- Zoned: CL/Commercial Low & Mount Vernon Urban Overlay.
- Residential uses abut the outdoor dining area to the west and are located within the R-2-5 zone.



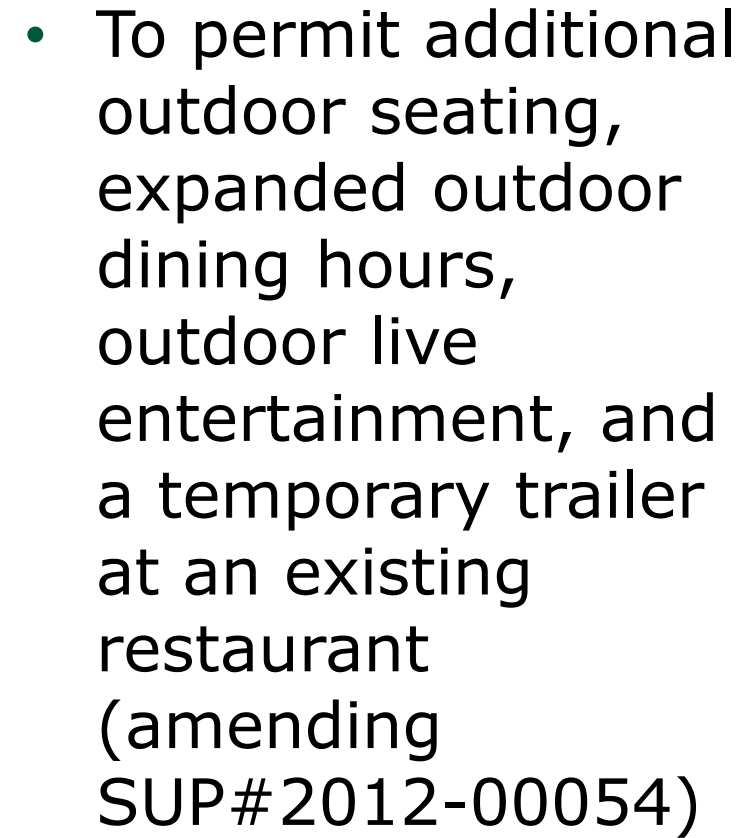
# Enforcement Background



- Commercial outdoor smokers are not permitted in the zoning ordinance and are not eligible for SUP review.
- 19 complaints (14 related to smoke/odor and 5 related to noise).
- 13 citations requiring removal of the smokers.
- Fire Marshall issued Fire Code violation.







# Special Use Permit Request



## Additional Outdoor Seating:

- Existing: 50 seats
- Proposed: 124 seats

## Outdoor Dining Hours:

- Existing: 8 a.m. – 10 p.m.
- Proposed: 7 a.m. – 11 p.m.

## Outdoor Live Entertainment Hours:

- Existing: Indoor limited live entertainment only (twice weekly).
- Proposed: Addition of outdoor live entertainment from 6 p.m. – 10 p.m., Wed.- Sat.

## Temporary Trailer:

- Existing: N/A
- Proposed in 10.2 Memo: Two-year approval, with three-year extension available via Admin SUP.

# Staff recommends approval subject to amendments to Conditions:

- Condition #3 to allow for a 74 seat increase in outdoor seating volume.
- Condition #4 regarding an expansion of outdoor dining hours of operation to 7 a.m. to 11 p.m.
- Condition #11 to permit outdoor speakers until 11 p.m.
- Condition #23 to prohibit odor and smoke from becoming a nuisance to neighboring properties; opposing the applicant's proposed amendment.
- Condition #25 to expand indoor limited live entertainment beyond two events a week and allow it to occur later than 10 p.m.
- Condition #26 to prohibit live performances outdoors; opposing the applicant's proposed amendment.
- Condition #31 to delete requirement for applicant to pursue additional parking; supporting applicant's proposed amendment.
- Condition #37 for unobstructed windows at eye-level along Mt. Vernon Avenue; supporting applicant's proposed amendment.
- Condition #44 to approve the temporary trailer for a period of two-years; opposing the applicant's proposed amendment.
- Condition #45 to require that deliveries and loading/unloading activities occur within designated on-street loading zones and/or in the parking lot located behind 2010 Mt. Vernon Avenue; supporting applicant's proposed amendment.
- New Condition #46 to require a staff liaison for adjacent neighbors; supporting applicant's proposed amendment.

## **ADDITIONAL INFORMATION**

# Nearby Outdoor Live Entertainment Examples:

- The Garden: No outdoor live or limited live (background music) entertainment
- Lena's: Outdoor limited live entertainment only
- Stracci: No outdoor live or limited live entertainment
- Del Ray Café: No outdoor live or limited live entertainment
- Hops N Shine: Outdoor limited live entertainment only



# Applicant's Proposed Condition Amendments



- **Condition 23 (Amend):** *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.*
- **Condition 26 (Amend):** *~~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.*
- **Condition 31 (Delete):** *~~The applicant shall diligently pursue additional parking to the satisfaction of the Directors of Planning & Zoning and Transportation and Environmental Services.~~*
- **Condition 37 (Amend):** *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.*
- **Condition 44 (Amend):** *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.*

# Applicant's Proposed Condition Amendments Cont..



- **Condition 45 (Amend):** *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 MountMt. Vernon Avenue or 205 E. Howell Ave.*
- **Condition 46 (New):** *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.*