

Docket Item # 9
Planning Commission Public Hearing
October 3, 2023

Consideration of approval of the Planning Commission minutes of the Public Hearing meeting
of October 3, 2023

*** * * M I N U T E S * * ***

ALEXANDRIA PLANNING COMMISSION

October 3, 2023, 7:00 p.m.

7:00 P.M., **Council Chamber**

301 King Street, City Hall

Alexandria, Virginia

Members Present:

Nathan Macek, Chair

Melissa McMahan, Vice Chair

David Brown

Mindy Lyle

Jody Manor

Vivian Ramirez

Stephen Koenig

Members Absent:

None

Staff Present:

Karl Moritz

Nancy Williams

Christina Zechman Brown

Tony LaColla

Ann Horowitz

Patrick Silva

Sam Shelby

Alexa Powell

Sheila McGraw

Brian Dofflemyer

Melissa Atwood

Helen McIlvaine

Department of Planning & Zoning

Department of Planning & Zoning

Office of the City Attorney

Department of Planning & Zoning

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Transportation & Environmental Services

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Office of Housing

CALL TO ORDER

The Planning Commission Public Hearing was called to order at 7:04 p.m. All members were present at the Call to Order.

Chair Macek then read the following statement into record:

“If you wish to speak on a docket item and have not already signed up to do so, please fill out a Speaker Form online by following the “Sign Up to Speak” hyperlink present on the cover page of this evening’s Public Hearing docket or in person by filling out a hardcopy speaker form, which can be found on either materials tables (located immediately outside the Chambers or at the back of the Chambers), and providing it to Ms. Williams, who has her hand raised.

Please note, comments from the public are limited to 3 minutes per speaker, with the exception of applicants and their representation. To make your public comment through the Zoom application, please click on the "Raise Hand" button located on the Zoom taskbar once you hear your name called upon to make your statement, in order to let Staff know it is you who needs to be unmuted in order to make your public comment.

To make your public comment if you are dialing into tonight’s meeting via phone, please press *9 to execute the “Raise Hand” function once you hear your name called upon to make your statement, followed by *6 to toggle the unmute function. To make your public comment in person, please come up to either podium located at the front of the Chambers when you hear your name called upon to make your statement. Before starting your public comment, please first identify yourself by first and last name.

The City encourages and welcomes public comment from all residents on Planning Commission matters. In keeping with that principle, and with the principle of inclusiveness, this is a reminder of the shared expectation that the content and tenor of public comments always be civil and respectful. Thank you for honoring those principles.

A reminder to all, including Commissioners, Staff, and Speakers in the Chamber to please speak clearly into the microphone to ensure all are able to hear in a clear manner.”

CONSENT CALENDAR:

Chair Macek inquired as to whether there were any changes to tonight’s Docket. Staff responded that there is a request for a deferral for Item 6 and, per the request of the Chair, to take the Consent Items before the Zoning for Housing /Housing for AllWork Session. Chair Macek removed Docket Item 3 from the Consent Calendar and placed it on the Docket after the Work Session.

2. Special Use Permit #2023-00065
1303 King Street - Galactic Panther
Public Hearing and consideration of a Special Use Permit for live entertainment; zoned: KR/King Street Urban Retail. Applicant: Erik Muendel

PLANNING COMMISSION ACTION:

On a motion by Vice Chair McMahon, seconded by Commissioner Lyle, the Planning Commission voted to recommend approval for Special Use Permit #2023-00065. The motion carried on a vote of 7-0 on the Consent Calendar.

4. Development Special Use Permit #2023-10006
801 S. Payne Street - Alexandria Fire Department Burn Building
Public Hearing and consideration of a request for a Development Special Use Permit with site plan for the demolition and reconstruction of a non-habitable burn building, including a Special Use Permit for expansion of a noncomplying use; a Special Use Permit for a building taller than 30 feet; and modifications to the crown coverage requirements; zoned: UT/Utility and Transportation
Applicant: City of Alexandria, represented by Noah Bergman, of Wiley|Wilson on of the Department of General Services

PLANNING COMMISSION ACTION:

On a motion by Vice Chair McMahon, seconded by Commissioner Lyle, the Planning Commission voted to recommend approval for Development Special Use Permit #2023-10006. The motion carried on a vote of 7-0 on the Consent Calendar.

ZONING FOR HOUSING WORK SESSION

Planning & Zoning Director Karl Moritz indicated that staff has a power point but he also indicated that this Work Session is primarily meant as a resource to the Planning Commission. He indicated that staff has compiled and released more information since the September 5 City Council/Planning Commission Work Session. Such information includes the [Number of anticipated unit yield from Zoning for Housing/Housing for All \(2838\) and how they are supported by infrastructure](#), and a [Snapshot of the Zoning Text Amendments, Master Plan Amendments and Housing Policy Amendments](#). This information is all available online. Mr. Moritz also indicated that through discussions with each Planning Commissioner information was received as to which initiatives were of most interest to review tonight and the list included: (1) Bonus Height; (2) Historic Development Patterns; (3) Single Family; (4) Town Homes; and (5) Housing for All. Mr. Moritz noted that we did receive direct questions from some Commissioners pertaining to these areas and the questions and responses are within tonight's [power point](#).

Questions also arose around the sequence for Phase I implementation and the work designated under Phase II since some changes relate to both phases. Staff indicated that it will proceed with the implementation of Phase I changes if they are approved while also working on Phase II subject to its approval and subject to receipt of the U.S. Department of Housing and Urban Development (HUD) grant. The timing for the HUD

grant is to submit on or around October 30 with decisions by HUD by the end of January 2024. Staff indicated there will be 6 years to utilize the grant if approved.

Staff also indicated that any questions and staff responses to Planning Commission questions and any questions and staff responses to City Council questions will be shared with both bodies.

Staff indicated that the next steps include the Planning Commission Public Hearing on November 1, with the City Council Public Hearing scheduled to open on November 14 and close on November 18. Consideration by the City Council is scheduled for November 28.

NEW BUSINESS:

3. Special Use Permit #2023-00057
103 East Del Ray Avenue Public Hearing and consideration of a request for a Special Use Permit to construct a new single-family dwelling on a developed substandard lot with yard modifications and a parking reduction; zoned: R-2-5/Single and two-family. Applicant: Deyi Awadallah

Alexa Powell and Sam Shelby gave a presentation and answered questions from the Planning Commission.

Speakers:

David Metzner, 103A E Del Ray Avenue, spoke in opposition to the request citing a letter of intent with the previous property owner to purchase the subject property so they could redevelop both lots jointly as one complying lot. This agreement was not honored and instead the lot was sold to a developer. The neighbor also raised concerns about the setbacks given the proximity to the property line and the potential for another fire. It was also mentioned that there was opposition from the neighbors for this project and even a letter submitted to this effect from one of them. On these grounds the speaker asked for the Commission to deny the application.

Deyi Awadallah, applicant. In response to a suggestion by Commissioner Brown, the applicant indicated he was open to reducing the porch and moving the house back another foot. In other words, reduce the depth of the porch to four feet.

Discussion:

Commissioner Brown inquired about the staff analysis regarding the neighborhood compatibility of the parking reduction given that other properties in this block have parking spaces in front rather than behind the house. Staff responded that while some properties on this block provide parking in front they are typically situated to the side of and not directly in front of the dwelling. Commissioner Brown indicated while he was supportive of the project, including the side yard modifications, but he was not supportive of a two-space parking reduction and felt that with minor modifications to the design the applicant could accommodate one off-street parking space. Staff noted that given the

required front setback in order to provide one standard off-street parking space, which measures 18.5ft in depth, the applicant would need to remove the porch which would alter the overall design. Commissioner Brown stated he saw no evidence that more than a few feet of the porch would be lost to reconfiguring the lot to accommodate one parking space.

Vice Chair McMahon asked staff about the proximity of this proposal to the neighboring property and whether typologically this was consistent with others on this block. Further, she asked whether, from a construction standpoint, if there were any differences between developing this as a single-family dwelling in close proximity to the neighbor versus a semi-detached unit. Staff responded that six properties on this block are developed with a semi-detached dwelling and at least six single-family dwellings that don't meet the side yard setbacks required by this zone, so the proposal is in character with others in the neighborhood. Staff also indicated that the applicant would be subject to all building code requirements in terms of providing fire safety with fire walls.

Chair Macek asked whether the development of the subject property would impede development of the adjacent lot. Staff responded that the adjacent property would have been required to have the same fire rating on their wall because of how close it is to the lot line. Staff also indicated they would not have to change their design and would not be inhibited by development of the subject property.

Chair Macek also asked whether the current request or previous Special Use Permit approvals for the adjacent property would preclude construction of a semi-detached two-family dwelling. Staff indicated they would likely need a Subdivision to relocate the property line along the party wall, so each dwelling was on their own lot. While staff had not done the analysis there was uncertainty about whether that proposal would meet the Subdivision requirements. In addition, the applicants could consolidate the lots and build a duplex. Finally, Chair Macek inquired whether they could do this as a Development Site Plan. However, it would not be eligible for Site Plan approval as those may only be triggered by the creation of at least three dwelling units.

Chair Macek supported the staff recommendation without the addition of the parking. Vice Chair McMahon concurred with Chair Macek and said if the applicant can find the space for parking that would be fine but didn't want to make it a condition of approval.

PLANNING COMMISSION ACTION, OCTOBER 3, 2023:

On a motion by Vice Chair McMahon, seconded by Commissioner Lyle, the Planning Commission voted to recommend approval of Special Use Permit #2023-00057 for side yard modifications and a two-space parking reduction. The motion carried on a vote of 6-1.

Reason: The Planning Commission generally agreed with staff's analysis.

5. Special Use Permit #2023-00060
2000 Mount Vernon Avenue - Evening Star Cafe / Hi/Fi Tex-Mex BBQ
Public Hearing and consideration of a Special Use Permit for additional outdoor

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seating, expanded outdoor dining hours, outdoor live entertainment, and a temporary trailer at an existing restaurant (amending SUP2012-00054); zoned: CL/Commercial Low.

Applicant: Majestic Grill, Inc., represented by M. Catharine Puskar, Attorney

Ann Horowitz and Patrick Silva gave a presentation and answered questions from the Planning Commission.

Speakers:

Jim Wallace, 104 Stewart Avenue, spoke in opposition to the request citing repeated issues relating to smoke/odor and noise.

Maria Wasowski, 306 Hume Avenue, spoke in support of the request citing her belief the business owners are providing a valuable amenity.

Thomas Welsh, 2100 Mount Vernon Avenue, spoke in opposition to the request citing concerns regarding smoker/odor from the smoker located on-site.

Mark Huto, 623 19th Street S., Arlington, spoke in support of the request and cited the positive impact that Evening Star has had on the community.

Gregory Norris, 113 E. Howell Avenue, spoke in opposition to the request citing concerns regarding smoke/odor, noise, and late-night activity in the outdoor dining area.

Paul O’Sullivan, 333 Green Street, spoke in support of the request and noted that the applicant has expressed a willingness to work to mitigate the issues described by other residents.

Laura Brown-Neuhoff, 39 Herbert Street, spoke in support of the request and the integrity of the applicant.

Gayle Reuter, 110 E. Del Ray Avenue, spoke in support of the request and stated that the Evening Star has a positive impact on the neighborhood.

Jonathan Greif, 39 Herbert Street, spoke in support of the request and stated that he does not feel the smoker produces overpowering smoke or odor.

Rae-Ann Miller, 107 E. Oxford Avenue, spoke in support of the request and her belief the proposed outdoor dining provides additional outdoor dining options for those who don’t feel comfortable eating indoors for health reasons.

Michael Babin, the applicant, spoke in support of the request and voiced his opinion that the issues reported by nearby neighbors are something that can be reasonably resolved. He also detailed how the Evening Star and Neighborhood Restaurant Group are committed to the community in which they operate and that they believe they have put together mitigation efforts that will address the concerns expressed by neighbors.

Cathy Puskar, the applicant’s attorney, spoke in support of the request, detailing the impact the Evening Star has had in revitalizing Del Ray and that the applicant’s request is in line

with the recommendations of the Mount Vernon Avenue Business Area plan. She detailed how the applicant has a fundamental disagreement with staff that the smokers cannot be reviewed as part of a Special Use Permit due to non-compliance with Section 4-107(A)

Discussion:

Chair Macek inquired whether the applicant's proposed changes to the smoker configuration satisfied the issues noted in the notice of violation issued by the Fire Marshall. Staff confirmed that, according to the Fire Marshall, they did. Chair Macek then inquired if the Fire Marshall or Health Department was responsible for evaluating air quality. Staff confirmed that air quality considerations are addressed by the Office of Environmental Quality (OEQ). Chair Macek inquired of OEQ staff whether they had evaluated quantitative air quality impacts from the smoker. Staff confirmed that it doesn't have the capability to conduct a quantitative evaluation of air quality. Chair Macek asked if staff had discussed with the applicant methods to mitigate smoke and odors. Staff confirmed that it had not discussed smoke mitigation methods, other than removal of the smokers, as it violated Section 4-107(A) of the Zoning Ordinance that doesn't permit outdoor commercial operations other than outdoor dining and retail. In addition, the applicant had not presented smoke mitigation options to staff for consideration.

Chair Macek then noted that he felt there is room for interpretation as to whether outdoor food preparation is ancillary to an outdoor dining use and stated that he was leaning towards recommending approval of the smoker because it is in support of the outdoor dining use. Chair Macek then commented that while he felt the smoker itself should be permitted the smoke, odor, and particulate matter it generates should be controlled so as not to be a nuisance to adjacent neighbors. Chair Macek then expressed disappointment that an after-the-fact approval of the request was required because applicant did not seek approval in advance of improvements and that city staff should have met with the applicant to discuss methods to mitigate smoke and odors prior to the Planning Commission hearing.

Commissioner Manor inquired if there have been approvals for cooking conducted within trailers. Staff confirmed there have been such approvals on the basis that trailers are subject to building code regulations and can be fitted with proper odor and smoke mitigation measures.

Commissioner Brown asked staff the extent to which food preparation is central to outdoor dining as a use. Staff responded that the preparation of food is not within the definition of outdoor dining as a use as it is typically associated with other uses which do involve the preparation of food such as restaurants and food trucks.

Vice Chair McMahon asked how special events permits are allowed while outdoor cooking in association with SUPs is not. Staff responded that approvals for special events requests are evaluated according to different criteria and assume different impacts based on their temporary nature.

Commissioner Manor expressed his feeling that the existing situation is untenable and asked the applicant how long it would take to install mitigation measures. The applicant responded that outside of how long the permitting period takes they could have the plans

ready within two weeks. Commissioner Manor stated that the City should do everything to support restaurants post-COVID, however, he believed that an earlier SUP review, than the standard one-year review, should be included to evaluate that the mitigation of smoke and odors has successfully occurred. He asked the applicant's attorney if the applicant owned the property adjacent to the subject site to the north; she confirmed that was correct. Commissioner Manor then inquired why there is not a loading zone located immediately in front of the business. The applicant's attorney stated this would require Traffic and Parking Board approval.

Commissioner Lyle voiced her agreement with the comments made by the Chair and Vice Chair and stated that the use of outdoor smokers and outdoor live entertainment are changes that have the potential to be a net positive for the Mount Vernon Avenue corridor.

Commissioner Ramirez inquired if HiFi Tex-Mex BBQ was served solely by food made in the smoker. The applicant's attorney confirmed that though the food prepared in the smoker is the main feature of HiFi Tex-Mex BBQ, preparation also takes place within the kitchen of Evening Star. Commissioner Ramirez asked if Thai Peppers required parking would be interfered with should deliveries occur from the lot located behind that business. The applicant's attorney confirmed this would not be the case but was not sure where Thai Peppers received their deliveries. She asked where on the site the smoker would be moved to in order to comply with Fire Code and mitigate smoke and odor issues; the applicant's attorney responded that the smoker had been moved against the railing of the exterior stairwell on-site and that they are proposing to extend the smoker exhaust to the roofline, attach a dispersion fan, and angle it to point toward Mt. Vernon Avenue.

Commissioner Brown stated that though he supports the proposal he would be voting in opposition to the request to send a message to City Council that their recommendation of approval represents a broadening of the historic interpretation of use limitations Section 4-107(A).

PLANNING COMMISSION ACTION:

On a motion by Commissioner Lyle, seconded by Vice Chair McMahon, the Planning Commission voted to recommend approval of Special Use Permit #2023-00060, subject to all conditions, code requirements, ordinances, and proposed amendments to Conditions #23, 26, 31, 36, 37, 44, 45, and the addition of Condition 46. The motion carried on a vote of 6-1.

Reason: The Planning Commission differed from the staff recommendation including the recommended changes to Condition 23 regarding mitigating the impacts associated with the smoker, Condition 26 regarding outdoor limited live entertainment, and Condition 36 requiring a six-month review.

Applicant has requested for deferral of Item #6

6. Zoning Text Amendment #2023-00005
Issue: (A) Initiation of a text amendment and (B) public hearing and consideration of a

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text amendment to the zoning ordinance to amend Section 6-300 to: revise the effective date of the Federal Emergency Management Agency's (FEMA) updated Flood Insurance Rate; revise existing and add new definitions related to floodplain management and development in floodplain districts; revise existing and add new sections to update language related to floodplain management and regulations for development in floodplain districts in compliance with federal regulations related to the National Flood Insurance Program (NFIP); and to correct typographical errors.

Staff: City of Alexandria - Department of Transportation & Environmental Services

PLANNING COMMISSION ACTION:

On a motion by Vice Chair McMahon, seconded by Commissioner Lyle, the Planning Commission voted to defer Special Use Permit #2023-00005. The motion carried on a vote of 7-0

7. **COMMISSIONERS' REPORTS, COMMENTS AND QUESTIONS**

Chair Macek noted that the FY 2023 Planning Commission Annual Report is Item 7a on tonight's Docket. He indicated that FY 2023 was a very productive year as the Annual Report documents.

7a. [FY 2023 Planning Commission Annual Report](#)

MINUTES:

7. Consideration of the minutes from the September 5, 2023, Planning Commission meeting.

PLANNING COMMISSION ACTION:

On a motion by Vice Chair McMahon, seconded by Commissioner Lyle, the Planning Commission voted to approve the minutes of September 5, 2023. The motion carried on a vote of 7-0

ADJOURNMENT

8. The Planning Commission meeting was adjourned at 11:15 p.m.