

City of Alexandria, Virginia

MEMORANDUM

DATE: JUNE 6, 2016

TO: CHAIRWOMAN AND MEMBERS OF THE PLANNING COMMISSION

FROM: KARL MORITZ, DIRECTOR, PLANNING AND ZONING

SUBJECT: SMALL BUSINESS ZONING – CHARTER LANGUAGE

Attached for your information is a draft City Charter language amendment whereby City Council delegates its authority to the Planning Commission to take final action on non-development, use-based Special Use Permits (SUP), similar to the process for site plans and subdivisions.

Staff proposes that Planning Commission actions on SUPs would be appealable to the City Council; however, staff suggests that the appropriate appeal process language be determined at a later date, since this would be a separate text amendment to the approval procedures in Article XI of the Zoning Ordinance.

The **attached language is for illustrative purposes only** and is meant to demonstrate how a proposed amendment for the City Council to delegate its authority to Planning Commission might be drafted. This language is not part of the proposed Zoning Ordinance text amendments for small business zoning. The drafted legislative amendments described here would be heard at a later date.

Proposed Charter Amendment regarding Planning Commission Authorization to approve Special Use Permits

Sec. 9.09 - Zoning powers.

In addition to the powers granted elsewhere in this charter, the council shall have the power to adopt by ordinance a comprehensive zoning plan designed to lessen congestion in streets, secure safety from fire, panic and other danger, promote health, sanitation and general welfare, provide adequate light and air, prevent the overcrowding of land, avoid undue concentration of population, facilitate public and private transportation and the supplying of public utility services and sewage disposal, preserve existing and facilitate the provision of new housing that is affordable to all segments of the community, and facilitate provision for schools, parks, playgrounds and other public improvements and requirements. The comprehensive zoning plan shall include the division of the city into zones with such boundaries as the council deems necessary to carry out the purposes of this charter and shall provide for the regulation and restriction of the use of land, buildings and structures in the respective zones and may include but shall not be limited to the following:

- (h) **It may require that permits be granted for special uses of property within a zone and may authorize the Planning Commission to approve special use permits for certain specified uses and shall provide for appeals to City Council of a final decision of the planning commission in such cases.**

City of Alexandria, Virginia

MEMORANDUM

DATE: JUNE 8, 2016

TO: CHAIRWOMAN AND MEMBERS OF THE PLANNING COMMISSION

FROM: KARL MORITZ, DIRECTOR, PLANNING AND ZONING

SUBJECT: PLANNING COMMISSION MEETING, JUNE 9, 2016
DOCKET ITEM #9
SMALL BUSINESS ZONING – ADDITIONAL TEXT AMENDMENTS

Attached are additional text amendments proposed as part of the Small Business Zoning proposal to be reviewed by the Planning Commission on June 9, 2016. Based on recently received public comments, staff proposes to make additional text amendments to further clarify and define the limitations and specific criteria associated with Administrative Special Use Permits (SUP).

In section *11-513 (B) Appeals*, staff proposes to add “Civic or business associations” to the list of affected persons eligible to file an appeal of the director’s decision on an Administrative SUP. Since civic and business associations are specific entities that are notified of pending Administrative SUPs, naming them in the appeal process was added for consistency.

In section *11-513(C) General* standards for all administrative uses, staff proposes to add one new standard concerning the re-review of all administrative SUPs.

In section *11-513 (L) Specific standards for restaurants*, staff proposes to amend three existing standards to provide more detailed language concerning ceasing meal and alcohol service, noise standards associated with live entertainment and limitations to on premise alcohol sales.

An issue recently raised by citizens relates to the ordinance’s special restrictions for on-premises alcohol service in three locations: the Mount Vernon Overlay Zone, the NR Zone (Arlandria) and the West Old Town neighborhood. Specifically, in these areas, for an Administrative SUP, “alcohol service is limited to table service.” The question raised was why these restrictions apply to these areas and not to other, potentially comparable locations in the City. Staff had limited time to look at the issue, but in that limited time came to believe that the distinction between “table service” and other types of on-premises service is not at all clear and deserves its own review by staff during the next phase of Small Business Zoning. As staff has not had time to investigate the issue fully, nor to contact the affected neighborhoods, we are not recommending a

change at this time. Staff anticipates having a small package of additional Small Business Zoning changes in the fall and would plan to include this issue among them.

In section *11-513 (M) Specific standards for outdoor dining*, staff proposes to amend an existing standard to specify the permitted hours of outdoor dining under the Administrative SUP review process.

The additional proposed text amendments to Section 11-513 of the Zoning Ordinance are as follows:

(B) Appeals.

(1) Any ~~person or civic or business association~~ nearby civic or business association ~~or any person~~ affected by a decision of the director issued pursuant to section 11-513(A)(5) may appeal the decision to the planning commission, by filing a notice of appeal, in writing, stating the grounds on which the person is affected and the grounds of appeal, with the director within 30 days of the issuance of the decision.

(C) General standards for all administrative uses:

(16) The Director of Planning and Zoning shall review the Special Use Permit after it has been operational for one year, 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; or (b) 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; or (c) the Director has determined that there are problems with the operation of the use and that new or revised conditions are needed.

(L) Specific standards for restaurants.

(5) Meals ordered before the closing hour may be served, but no new patrons may be admitted, **no new meals may be ordered and no alcohol served** after the closing hour, and all patrons must leave by one hour after the closing hour.

(6) Limited, live entertainment may be offered at the restaurant, **and must comply with the city's noise ordinance. No outdoor speakers shall be permitted. No amplified sound shall be audible at the property line.** No admission or cover fee shall be charged. All entertainment shall be subordinate to the principal function of the restaurant as an eating establishment. Any advertising of the entertainment shall reflect the subordinate nature of the entertainment by featuring food service as well as the entertainment.

(8) Full alcohol service consistent with a valid ABC license is permitted. No ~~off-premise alcohol sales~~ **alcohol sales for off-premise consumption** are permitted. Within the West Old Town neighborhood (bounded by Cameron, North West, Wythe and North Columbus Streets), no alcohol shall be served before 11:00 a.m. or after 10:00 p.m. daily. Within the Mount Vernon Avenue Overlay zone, the NR zone and the West Old town neighborhood areas, alcohol service is limited to table service.

(11) The applicant shall control odors, ~~and smoke~~ **and any other air pollution** from the

operations at the site and property to prevent them from leaving the property or becoming a nuisance to neighboring properties, as determined by the department of transportation and environmental services.

(M) Specific standards for outdoor dining.

(4) The hours of operation for the outdoor dining shall be the same as permitted for the indoor restaurant, unless a neighborhood standard has been established with a different time. Within the NR Zone, the Mount Vernon Avenue Urban Overlay Zone and the West Old Town neighborhood areas, outdoor dining shall be closed and cleared of all customers by 10:00 p.m. Sunday through Thursday and by 11:00 p.m. on Friday and Saturday. **Within the Old Town Small Area Plan, outdoor dining shall be closed and cleared of all customers by 11:00 p.m. daily, consistent with the King Street outdoor dining overlay zone section 6-805(E).**

Re: Planning Commission June 9, 2016 Special Public Hearing Text Amendment #2016-0004 Small Business Zoning

TA2016-0004
Additional Materials

Arthur Impastato <aimpastato@earthlink.net>

Fri 5/27/2016 3:03 PM

To: PlanComm <PlanComm@alexandriava.gov>;

Cc: Sara Brandt Vorel <Sara.BrandtVorel@alexandriava.gov>; Taryn Toyama <Taryn.Toyama@alexandriava.gov>; Kendra Jacobs <Kendra.Jacobs@alexandriava.gov>; Karl Moritz <Karl.Moritz@alexandriava.gov>;

Dear Members of the Planning Commission:

I have served for well over a decade on the boards of various Alexandria civic organizations and recognize the need for the City to attract small business. I have been supportive of past revisions to streamline the SUP process for such businesses.

As you are no doubt aware, City staff is proposing additional revisions to the SUP process for small businesses and these proposals are up for consideration by the Planning Commission during its special public hearing on June 9 (Text Amendment #2016-0004 Small Business Zoning). I support most of the proposed revisions with one notable exception since it abrogates public input at a time when the City has made great headway in enlisting public input into the decision making process (e.g. the West Eisenhower SUP process).

City staff is proposing to "[o]nly require Planning Commission approval for all non-development SUPs." Doing so eliminates City Council input as well as public input during City Council's deliberative process. If a matter has a significant enough impact that it requires going through the SUP process, it should receive full vetting by both the Planning Commission and City Council. It is also worth noting that City staff provides no definition for what would constitute a "non-development" project. Having no guidelines for what is a "non-development" project is an open invitation for land use and zoning lawyers to get an easy path to approval for projects that will adversely affect adjacent neighborhoods. I would also add that, when the initial proposals were presented by City staff to the Alexandria Federation of Civic Associations earlier this year, City staff made it clear that they would not recommend this specific proposal and that it was something for possible consideration down the line.

In sum, please reject the Staff's proposal to "[o]nly require Planning Commission approval for all non-development SUPs."

Sincerely,

Arthur "Sash" Impastato
239 Medlock Lane
Alexandria, VA 22304

May 31, 2016

The Honorable Mayor and Members of Council
The Honorable Members of the Planning Commission
City of Alexandria
301 King Street
Alexandria, Virginia 22314

Subj: Proposed City Charter Amendment Regarding Special Use Permits

Dear Members of the City Council and Planning Commission:


The Alexandria Federation of Civic Associations (AFCA), by a unanimous vote at its May 25, 2016 membership meeting, strongly opposes the staff's proposal that the City Charter be amended to delete the City Council's responsibility for the review and approval of "use-based" Special Use Permits.

We believe that the ultimate responsibility for use based, non-development Special Use Permits should remain with the City Council, as it has since Alexandria first adopted the SUP zoning system, and as would continue to be the case for all other types of SUPs. Terminating the process without final review and approval by the City Council would result in only a modest efficiency—shortening the sequence by a matter of only a few days—but would remove entirely the opportunity for interested parties and citizens to participate in a review by their elected governing body. These decisions affect Alexandria residents and Alexandria residents have an impact on these decisions through those representatives.


The City Council not long ago adopted what was described as "binding city policy" on civic engagement, stating its purpose to be "to ensure that public participation in the formulation of City public policy shall be welcomed and encouraged" at all levels, citing the benefits of such engagement in improving public understanding of and support for public policy decisions, "resulting in confidence in the equity of the public decision making process" and "reinforcing mutual trust between the community and City government." The City should now seek to maintain and invigorate effective public participation in its public policy decision-making process, rather than moving so quickly to curtail it.

The Planning Commission serves as an advisory body to City Council and is well-suited to that responsibility. We note that many SUPs are handled at the administrative level, and we have taken no position on the proposed changes to add more to that number. But if an SUP warrants the level of review, consideration, and judgement represented by a public body, it should ultimately be the body elected by and most directly accountable to the people.

Sincerely,



Ali Ahmad, Co-Chair



Roy R. Byrd, Co-Chair

[cc Virginia delegation]

6/9/16 Agenda Item 9 Text Amendment #2016-0004

Ali Ahmad <ali.ahmad@gmail.com>

Thu 6/2/2016 10:20 AM

To: PlanComm <PlanComm@alexandriava.gov>;

Dear Planning Commission Members:

I'm writing to support the proposed changes to streamline small business zoning. I've carefully reviewed each change and feel they are great improvements to the process to save both the business and the taxpayer money.

I do not support the proposed charter amendment referenced in the staff report, unless a strong appeals process is established. From my perspective, the key to a strong appeals process is a low barrier for citizens to appeal.

I greatly respect the Commission's work and recognize that most of the steps taken and accommodations made to address citizen concerns happen at either the Commission level or staff level prior to Council consideration. However, I think the ability to appeal these decisions directly to your elected body is vital. If the hearing before Council is no longer automatic, then it should be easily achievable for residents and stakeholders of any means.

Best,
Ali Ahmad
230 South Jenkins St
Alexandria, VA 22304

P.S.- I currently head my local civic association, Wakefield Tarleton, and serve as co-chair of the Alexandria Federation of Civic Associations. But the opinions expressed here are mine alone.

--

Ali Ahmad
703.895.9899

*"I'm a slow walker, but I never walk back."
Abraham Lincoln*



June 7, 2016

Planning Commission Chair Mary Lyman
And Members of Planning Commission
City of Alexandria

Re: June 9 Docket Item 9, Small Business Zoning Text Amendment

Dear Ms. Lyman and Members of Planning Commission

The Eisenhower Partnership strongly supports the proposed Text Amendment to make it easier to open and operate a small business in Alexandria by streamlining zoning provisions. Among our membership and including non-member businesses along the Eisenhower Avenue corridor, we know of several instances where businesses have had delayed openings or incurred costs that should have been unnecessary to obtaining approvals in order to move in or modify/expand their businesses. The proposed text amendments to shift several types of SUPs from full-hearing to administrative or permitted use are common-sense amendments that are further supported by the staff's experience in similar cases and staff's comprehensive knowledge of Alexandria's neighborhoods and where impacts might be expected.

We believe that for the categories identified in the proposed text amendments, there is very little risk in the staff proposals, while the benefits to small businesses will be noteworthy.

We appreciate the staff's continuing efforts to identify areas where zoning can be simplified and rendered less onerous to the small businesses who frankly are the life blood of the Alexandria community. We would not be a complete and thriving city without those businesses.

The Eisenhower Partnership urges the Planning Commission to initiate and approve Text Amendment #2016-0004, and to further direct the staff to continue looking for Zoning Code provisions that can be modified or clarified to reduce the burden on small business without affecting nearby residential neighborhoods.

Sincerely yours,

Agnès Artemel
Vice President, Eisenhower Partnership

CC: Alex Dambach, P&Z



CITY OF ALEXANDRIA
SERVICE REQUEST
PLZ Council Request

06/07/2016
TA2016-0004
Additional Materials

REQUESTID: 98556

PRIORITY: 3

PROBLEMCODE: PLZ_COUNCIL

SUBMITTO: HOROWITZ, ANN

DESCRIPTION: PLZ Council Request

INITIATEDBY: API, SR

PROBADDRESS:

PRJCOMPLETEDATE: 06/14/2016

DATETIMEINIT: 06/07/2016

CALLER(S) INFORMATION:

CELLPHONE

FIRSTNAME BILL

HOMEPHONE 703.403.5857

LASTNAME BLACKBURN

WORKPHONE

ADDRESS

EMAIL BILL@BBQDELRAY.COM

CELL PHONE

QUESTION:

ANSWER:

COMMENTS:

By API, SR: 6/7/2016 11:28:27 AM
Mayor and Members of Council
Members of Planning Commission
City of Alexandria Virginia
301 King St
Alexandria VA 22314

Subject: Proposed Changes to the Special Use Permitting Process

The Del Ray Business Association (DRBA) supports the proposed changes to the SUP Process. The SUP process is an important exercise to ensure that Alexandria continues to be a great city to both live and do business. The current process has served Alexandria well. However, the proposed changes will make Alexandria more competitive in the business market and make it easier for businesses to get started.

The City of Alexandria has long battled the reputation of a "bad place" to do business, true or not, the City needs to do what is possible to change this image. Throughout our region, it is the small businesses that come in and help revitalize neighborhoods. The businesses provide a new commercial tax base and increase new home construction and increase current home values. King Street and Del Ray are examples of this trend in Alexandria.

Alexandria must find ways to keep our current businesses and attract new ones as areas in Arlington and The District of Columbia become increasingly more popular with the future largest revenue holders, the Millennials. If proactive steps are not taken, these Millennials will find other areas in the DC Metro Area to do business. The City should take steps such as the proposed SUP changes as a way to encourage more revitalization of other parts of this city.

While we support and understand the full SUP process for larger more complex projects, we have a very well-funded and supportive city staff that is more than capable of overseeing the less impactful projects.

Sincerely,

Bill Blackburn

President DRBA
Managing Partner, HomeGrown Restaurant Group

By GREEN, ARNELL: 6/7/2016 12:06:40 PM

Dear Bill Blackburn

Thank you for contacting the City of Alexandria. Your information has been forwarded to the Department of Planning and Zoning/Office of the Director for review and a response.

By Agee, Kim: 6/7/2016 3:06:20 PM

Ann, please review and respond.

Thanks

no admin approval for restaurants

Cathleen Curtin <ccurtin1@comcast.net>

Tue 6/7/2016 5:18 PM

To: PlanComm <PlanComm@alexandriava.gov>;

Commissioners,

It has come to my attention that the commission is considering staff to approve and process applications removing commission and public scrutiny.

DO NOT APPROVE the following:

(A) Initiation of a Text Amendment; and (B) Public hearing and consideration of a Text Amendment to various sections of the Zoning Ordinance to: allow administrative review of Special Use Permits for certain uses requiring a hearing; allow certain uses requiring a Special Use Permit to be permitted by-right; update various use categories and definitions to clarify and identify certain uses; amend the criteria for Minor Amendment and Outdoor Dining administrative review of Special Use Permits; and various technical corrections.

I Say No to Staff-Only reviews. Transparency is key to this community. Citizens and tax payers deserve to know what is proposed in their community through the public docket and commission review process.

Best regards,

CATHLEEN

Cathleen Curtin RA AIA

CATHLEEN CURTIN Architects PLC

703 930 9322

www.cathleencurtinarchitects.com

501 Princess Street

Alexandria, VA 22314



Member of The American Institute of Architects



Memorable, creative, sustainable architecture and interiors in the DC area for over 20 years.

JUN 08 2016

Date: June 7, 2016

To: Planning Commission Members

Re: June 9, 2016, Planning Commission Meeting
Text Amendment #2016-0004 - Small Business Zoning

From: Ellen Mosher, 324 N. Saint Asaph Street, Alexandria, VA 22314

I oppose the above referenced Text Amendment and request you do NOT initiate it and reject it.

Recently, the Old Town section of Alexandria has been the location of:

- over 775 required parking spaces to be provided by SUP applicants, per code, were reduced via SUP Parking Reductions
- over 900 new restaurant seats in the King Street Retail Zone (KR) where, per SUP, no parking was required to be provided by applicant
- the removal of a city parking lot with 101 spaces,

The impact of these approvals is spill over parking problems in the residential neighborhoods. The 2009 Old Town Parking Study confirmed the parking problems then, however, nothing has been done except add to the problem.

This Text Amendment states restaurants in the Commercial Downtown (CD) Zone want 2 delivery vehicles and restaurants with less than 20 seats will not be required to have parking Old Town has a parking problem. Anything that adds to this parking problem should be rejected.

Planning and Zoning should be addressing and correcting this parking problem created with all of these SUP approvals. New parking garages are needed to correct this very old problem instead of adding to it. If they need some ideas for parking garage sites, I have several sites in mind so please ask me.

Next, no restaurant in the King Street Retail Zone (KR) should be approved via administrative approval. A full hearing should always be required.

Lastly, no restaurant in the Commercial Downtown Zone (CD) should be approved. Per the zoning map, CD zoned properties are in the residential neighborhoods. Per the Old Town Restaurant Policy, "City Council shall not approve a request for a special use permit for any new restaurant, carry-out, or fast food establishment or an expansion of an existing restaurant, carry-out or fast food establishment unless it finds that the request does not significantly impact nearby residential neighborhoods." Since restaurants in neighborhoods significantly impact the neighborhood, SUP's for a restaurant in a CD zone should be rejected per the Old Town Restaurant Policy.

The Old Town part of Alexandria is a 250 year old well established neighborhood and should continue to be a neighborhood. This is one of very few historic neighborhoods in the country. Residents buy homes here, restore and maintain them per BAR codes resulting in a charming historic neighborhood. This is what tourists come to see in Old Town: a charming, well maintained historic neighborhood as well as the museums and wonderful historic sites.



625 N WASHINGTON ST □ SUITE 400 □ ALEXANDRIA, VA 22314

June 8, 2016

Mayor and Members of City Council
City of Alexandria
301 King Street
Alexandria, VA 22314

Dear Mayor Silberberg and Members of City Council,

On behalf of the City of Alexandria business owners and resident members on the Alexandria Small Business Development Center Board, I want to encourage your approval of the proposed zoning changes for small businesses.

We believe City staff has undertaken a comprehensive review of current ordinances and the community impacts of past administrative approval changes, and has carefully noted where current requirements are excessive and can be relaxed without adversely impacting the community. They have also sought to bring Alexandria's processes in line with current business operation trends.

Alexandria SBDC works with entrepreneurs going through the permitting processes and has witnessed the costly impacts that are characteristic of the unpredictable multi-hurdle review process. The small businesses that suit Alexandria's scale and character do not have deep pockets. Their funds and emotions are strained during the stressful startup process when they must be focused on buildout, staffing, inventory, competition and marketing. The multi-hurdle process adds weeks and sometimes months of delay before they can open and begin slowing their negative cash flow. The SBDC knows from experience that weak cash flow at the start can lead to eventual business failure.

We encourage you to approve the proposed zoning changes that will strengthen the viability of our small business economy and make this a more welcoming community for entrepreneurs.

I sincerely thank you,

Maurisa Turner Potts
Chairman, Alexandria Small Business Development Center

Cc: Mark Jinks, City Manager
Emily Baker, Deputy City Manager
Karl Moritz, Director of Planning
Stephanie Landrum, President & CEO, Alexandria Economic Development Partnership