

# City of Alexandria, Virginia

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## MEMORANDUM

**DATE:** MARCH 21, 2019

**TO:** THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

**FROM:** KARL MORITZ, DIRECTOR OF PLANNING AND ZONING

**RE:** 3225 COLVIN STREET – DC POULTRY MARKET: ADDITIONAL INFORMATION

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**ISSUE:** Following the March 16<sup>th</sup> City Council Public hearing on the request for a special use permit at 3225 Colvin Street, city council members have requested additional information regarding this docket item. Staff has provided this additional information as a supplement to the posted staff report:

**DISCUSSION:**

*(A) Could more information be provided on the determination that was made on the classification of the this use and the reason why Section 4-1203(V) was applied.*

- In May of 2018, staff received a request inquiring about a potential business that would involve butchering live poultry. With this request, the applicant requested information on how the use would be classified and what properties within the city would be zoned properly for such a use.
  - Upon evaluation of the applicant’s business plan, staff determined that the business request did not meet any of uses listed within the Zoning Ordinance, with an evaluation focusing around the following:
  - Retail shopping establishment (section 2-191): because the use also required storage of live animals, the use was not exclusively listed as a type of store within the definition of a retail shopping establishment.
  - Animal care facility (section 2-112.1): while this use does provide for temporary boarding of animals, this definition explicitly states the type of use is an establishment for the care of “common household pets”, such as dogs, cats, and other domesticated animals kept within dwelling units by residents within the city.

- As the operation of this establishment does not meet the definitions of existing uses as defined within the zoning ordinance, a determination was made that the applicant may request a special use permit pursuant to section 4-1203(v) of the Zoning Ordinance as the uses were not listed elsewhere within the ordinance.
- The industrial zone includes a wide variety of uses, some of which are permitted by-right and others that are permitted with a special use permit. This includes the allowance of “any other use not listed elsewhere in this ordinance” with a special use permit. That provision would require us to consider allowing an agricultural use if the off-site impacts of that agricultural use could be mitigated with a special use permit.
- Additional consideration was given to city code provision section 5-7-2, which regulates the keeping of fowl within the city. While this provision provides general guidance on the minimum distance requirements for properties where fowl may be located (a minimum of 200 feet from any residence or dwelling), it does not preclude the need for a special use permit, since the both Section 5-7-2 (animal control ordinance) and Section 4-1203(v) (zoning ordinance) must be satisfied in this case.
- City Code provision 3.04(m) also empowers the city with the ability to regulate slaughterhouses, which may further provide justification for regulating this type of use with a special use permit in order to mitigate impacts of the type of facility.

***(B) How many chickens would be processed by the applicant?***

- Based on a statement by the applicant at the public hearing on March 16, 2019 the applicant would have approximately 200 – 400 chickens per day (with the potential for approximately 500 per day during holiday seasons).

***(C) Has the applicant received any violations at other locations that he operates live chicken markets?***

- Staff has communicated with regulatory staff in three cities where the applicant operates: San Francisco, CA; Philadelphia, PA; and New York, NY. Upon speaking with planners in San Francisco and New York, the facilities in those respective cities has not been found in violation of any of their conditions of approval. In Philadelphia, the property owner for the building was cited for litter and the situation was remedied. Staff has also communicated with the New York Department of Agriculture and Markets Division of Animal Industry, which inspects these types of facilities within that state. Joy Bennett, chief inspector with the Animal Industry division, has provided two inspection reports of the applicant’s live poultry markets within the state. Both received a satisfactory passing rating. See Attachment 1 and Attachment 2 for the live inspection reports.

***(D) What are the correct regulations and requirements from the Health Department and VDACS/USDA? How are the regulated to control for the avian flu?***

- Live poultry markets are regulated by all three, depending the scope of their business models, the location of origination of the chickens, and how many chickens are being slaughtered by the facility:

- i. Alexandria Department of Health: the local health department requires a license for this type of facility if it has a “grocery” component: direct sale of processed or prepackaged meats to the public. As a part of the inspection process for that license, the “front-of-house” operations would be inspected which would range from the temperature of water and refrigerators, and general cleanliness of the customer areas. Because there is not a grocery store component, this type of facility does not require a health department permit and would be regulated by the Virginia Department of Agricultural and Consumer Services and the United States Department of Agriculture.
- ii. Virginia Department of Agriculture and Consumer Services (VDACS): the applicant would be required to receive a permit if they process more than 20,000 poultry per year from the facility. Based on the projected number of chickens provided by the applicant at the public hearing, it may fall into two different inspection processes:
  - 1. *Less than 20,000*: a facility that receives an exemption from VDACS would be inspected upon opening the facility and periodically to ensure ongoing compliance with sanitation requirements. The number of birds processed would be regulated and reported the applicant to verify compliance with the exemption.
  - 2. *More than 20,000*: a facility that is not eligible for an exemption is required to have an on-site inspector monitoring the facility during all hours of operation and would conduct a bird by bird inspection to ensure the health and fitness of each bird. The on-site inspector would also ensure the cleanliness of the facility at all times and would report findings to the state. Based on the projected number of chickens to be processed daily, the applicant would more than likely require an inspection within this category.
  - 3. *Interstate transport*: VDACS requires that all poultry entering Virginia must be tested negative for typhoid within 30 days prior to entry. Also, the birds must test negative for avian influenza within 14 days of movement into the state. Additional import requirements exist including the need for a veterinary inspection.
  - 4. *Virginia Department of Environmental Quality*: would require a permit to ensure that any liquid waste that is generated is free of grease (per condition 16).
- iii. United States Department of Agriculture (USDA): the facility is required to adhere to the Uniform Standards for a State-Federal-Industry Cooperative Program in order to control for avian flu. The USDA federal regulatory apparatus that is enforced by the individual state’s licensing agency (in the

case of Virginia, VDACS inspections). Part III of the document regulates Live Bird Markets and discusses the licensing, bird testing, sanitation, and avian influenza containment requirements. The applicant would be required to adhere to the provisions of Section A and B; as the applicant proposes to operate a live market and would distribute the chickens through their own box trucks from a facility in Pennsylvania. See Attachment 3 for the Uniform Standards.

***(E) What pest and rodent control measures would the applicant have to undertake?***

- Pest and rodent control would be controlled by city code requirements (Chapter 6) which are enforced by multiple city departments. In addition, the applicant would be inspected by VDACS (daily by an on-site inspector if processing more than 20,000 chicken per year) to ensure sanitary requirements are met.

***(F) What will happen to the wastewater from this facility and if Alexandria Renew is prepared to handle waste?***

- Condition 16 was created under consultation with AlexRenew, which states that the applicant may drain effluent from all cleaning and sanitizing activities to the sanitary sewer system with prior approval from AlexRenew or covered by permit by the Virginia Department of Environmental Quality.

***(G) What are the noticing requirements for this Special Use Permit?***

- The noticing period for March was 2/14-2/23 for both the applicant and the City. Applicants must send out their written notice by 2/23 (postmarked). Then five days before the PC hearing (2/26), applicants submit to the Department of Planning and Zoning their Certification of Notice Package. The Certification of Notice Package contains the following required attachments: (1) certification of notice, (2) copy of the notice letter sent to abutting properties, (3) list of the names and addresses of those persons to whom notice was sent, (4) copy of the post office receipts for the certified or registered mail.
- Notice conducted by the City are as follows:
  - Meeting date and time are listed on the City Calendar
  - Preliminary docket was first published on 2/6 (and staff updated the preliminary docket as needed)
  - E-news was sent out on 2/6 for the Preliminary docket
  - The case was first advertised in the Alexandria Times (2/14 edition) then again on 2/21 edition with revised language
  - Placard was posted on 2/21 and reposted on 2/27 because the original posting was reported down
  - Final docket was published on 2/22
  - E-news was sent out 2/22 for the Final docket

***(H) Could you provide additional information on traffic that may be generated?***

- Based on the ITE Trip Generation Manual, the number of trips that are projected to occur for the proposed facility would be 110 vehicles per day. Based on the City's

traffic analysis requirements, a facility is deemed to have a higher impact if the facility generates trips that would exceed 50 vehicles per hour; whereby an applicant would be required to submit a traffic study to the city. The proposed use does not trigger the requirement for a traffic study.

**STAFF:**

Chrishaun Smith, Urban Planner

Attachments: New York Health Inspection Report (1)  
New York Health Inspection Report (2)  
Uniform Standards for a State Federal-Industry Cooperative Program