



***Special Use Permit #2019-00118***  
***105 and 107 North Union Street***  
***Riverside Taco Company***

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Application	General Data	
<b>Request:</b> Public Hearing and consideration of a request to amend SUP #2018-00111 to permit outdoor speakers and live acoustic entertainment.	<b>Planning Commission Hearing:</b>	March 3, 2020
	<b>City Council Hearing:</b>	March 14, 2020
<b>Address:</b> 105 and 107 North Union Street	<b>Zone:</b>	CD/Commercial Downtown Zone and WPR/Waterfront Park and Recreation Zone
<b>Applicant:</b> ARP Waterfront, LLC	<b>Small Area Plan:</b>	Old Town Small Area Plan Waterfront Small Area Plan

**Staff Recommendation:** APPROVAL subject to compliance with all applicable codes and ordinances and the recommended permit conditions found in Section III of this report.

**Staff Reviewer:** Max Ewart, [max.ewart@alexandriava.gov](mailto:max.ewart@alexandriava.gov)  
Ann Horowitz, [ann.horowitz@alexandriava.gov](mailto:ann.horowitz@alexandriava.gov)

**PLANNING COMMISSION ACTION, MARCH 3, 2020:** On a motion made by Commissioner Lyle and seconded by Vice Chair Wasowski, the Planning Commission voted to recommend approval of Special Use Permit #2019-00118 with an amendment to Condition #30 and the addition of Condition #33 and subject to compliance with all applicable codes, ordinances and staff recommendations. The motion carried on a vote of 7-0.

**Reason:** The Planning Commission generally agreed with the staff analysis. The commission believed that the reference in Condition #30 to a three-month trial period for outdoor music should be deleted to be consistent with other SUP uses that provide outdoor music. Additionally, they mentioned that the existing standard Condition #30 language was sufficient to allow for further mitigation if noise impacts occur. The commission added Condition #33 to provide for the addition of temporary string lights should the applicant choose to install them in the outdoor market area.

Commissioner Lyle recommended that reference to a three-month trial for outdoor music should be deleted from Condition #30 given that the condition already provides the opportunity for sound mitigation measures if noise conflicts result. She also suggested the addition of Condition #33 to allow the applicant to install string lights to the outdoor market area.

Commissioner McMahon and Vice Chair Wasowski agreed with Commissioner Lyle, stating that the language amending Condition #30 was unnecessary and was inconsistent with other SUPs with outdoor music.

Chair Macek expressed support for the request, noting that two other restaurants in the adjacent waterfront area provide outdoor music without issues. He added that the noise ordinance would protect nearby uses and diminish the need for a three-month trial.

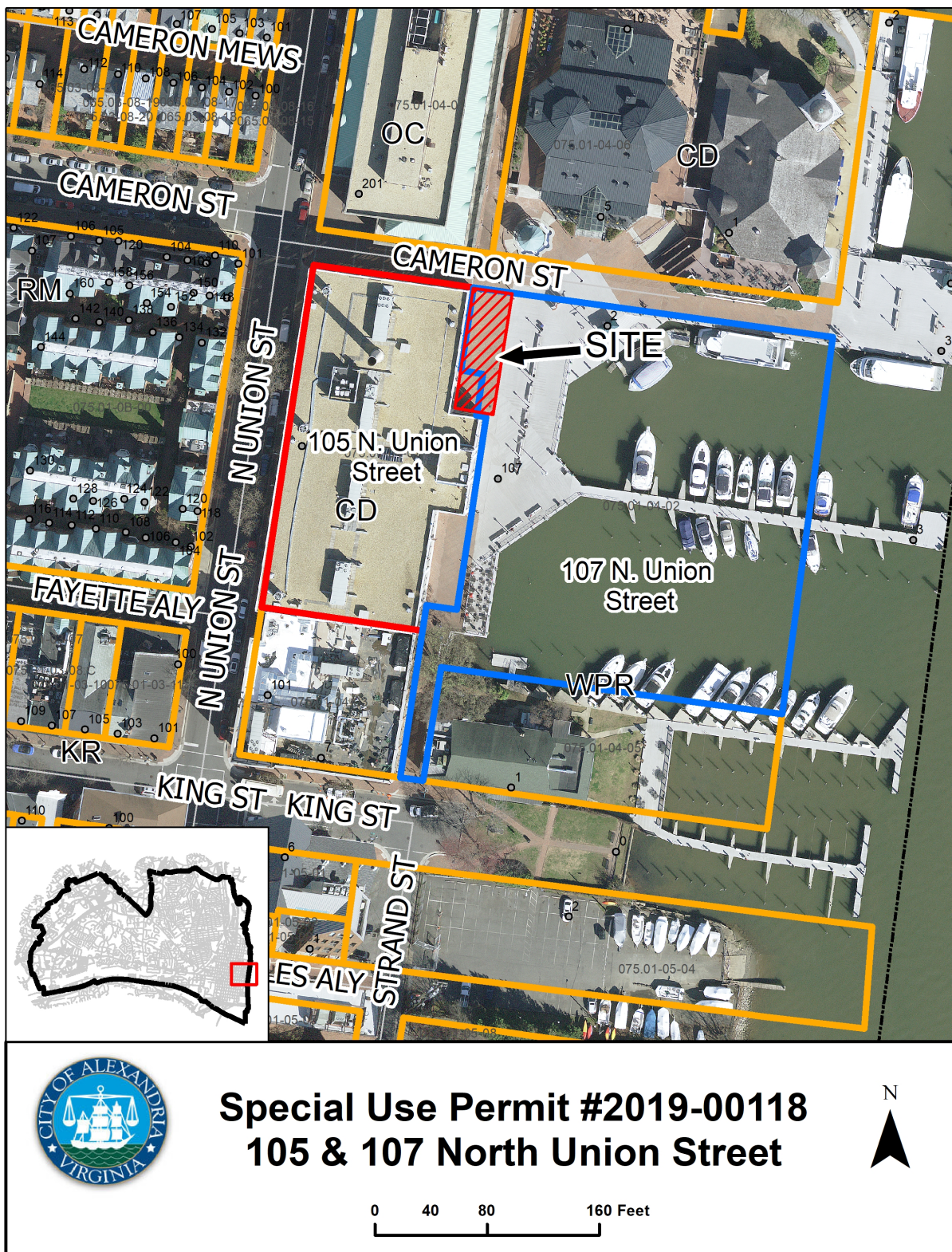
Speakers:

Karen Boyd, 109 Cameron Mews, supported the application, although she encouraged the commission to broadly consider the impacts of outdoor music from commercial enterprises when these uses are adjacent to residential properties.

Roger Lathbury, 100 Cameron Mews, notified the commission that amplified and unamplified music from the waterfront area can be heard at his property.

Brett Johnson, Torpedo Factory Arts Center director and City staff member, spoke on behalf of the center's artists, expressing support for a vibrant waterfront and for the staff recommended three-month trial period to allow music at Riverfront Taco.

M. Catharine Puskar, applicant's attorney, spoke in support of the outdoor music request, however, she disagreed with the staff recommendation for a three-month trial period in Condition #30. She noted that the applicant would engage with the Torpedo Factory Arts Center to limit noise impacts.



PROJECT LOCATION MAP



## I. REPORT SUMMARY

The applicant, ARP Waterfront, LLC requests Special Use Permit approval to amend SUP #2018-0111 to allow for amplified background music through outdoor speakers and live unamplified acoustic entertainment at an outdoor food and crafts market. Staff recommends approval of the applicant's request subject to the conditions outlined in this report.

### SITE DESCRIPTION

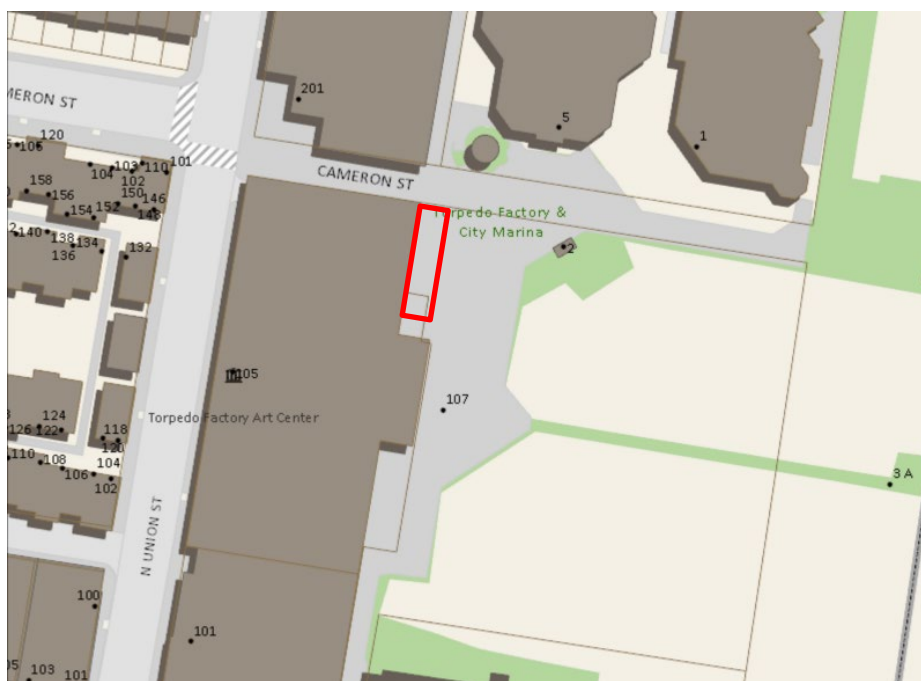
The subject site is a 1,746 square foot area along the northeasternmost corner outside of the Torpedo Factory Arts Center (Figures 1 and 2). This area has been designated for private use through a long-term lease agreement with the City and exists on portions of two parcels at 105 North Union Street and at 107 North Union Street. The entire parcel at 105 North Union Street has approximately 245 feet of frontage on North Union Street, a depth of approximately 135 feet and a total lot area of 31,904 square feet. A total lot area of 64,860 square feet exists for 107 North Union Street. The 105 North Union Street parcel includes the three-story Torpedo Factory Arts Center (TFAC) and the 107 North Union Street parcel encompasses an open plaza area and the City Marina. A portion of the TFAC building shares a property line with Riverside Taco.

In addition to its proximity to the Torpedo Factory Arts Center, the outdoor food and crafts market would be located to the north of Vola's Dockside Grill and Hi-Tide Lounge; to the south of Blackwall Hitch and the Chart House restaurants; and to the west of the Waterfront Plaza and the City Marina.



*Figure 1: Subject site*





*Figure 2: Subject location*

### BACKGROUND

Several decades ago, a lease agreement was established with the City for the private use of the subject area and the area below the Chart House to promote increased activity and entertainment opportunities in the plaza. For many years, the leased area outside of the TFAC has supported individual vendors as well as Torpedo Factory, City and community events.

City Council approved Special Use Permit #2018-0111 on February 23, 2019 for the existing outdoor food and crafts market. In October 2019, an inspection revealed that the applicant was in violation of Conditions #7 as the layout was inconsistent with the plans approved in the SUP and of #19 for amplified music. On a subsequent follow-up inspection, the zoning inspector confirmed that the applicant complied with all SUP conditions.

### PROPOSAL

The applicant proposes to amend its SUP to allow for amplified background music projected through outdoor speakers and live acoustic unamplified music during the hours of operation. The applicant does not propose any other changes to the business operation. The business would continue to operate daily from 10 a.m. – 11 p.m. during warmer months and the seating area would remain open to the public.

The operation would continue to operate as noted:

Hours of operation:	10 a.m. – 11 p.m., daily
Seats:	90
Alcohol sales:	On-premises alcohol sales only
Plein-air artist stations:	Space for up to five stations would be available
Availability for rent:	The space would be available for the Torpedo Factory Arts Center, the City and community groups to rent

### PARKING

Section 8-300(B) of the Zoning Ordinance states that an outdoor food and crafts market less than 10,000 square feet is not required to provide parking. Therefore, the 1,746 square foot outdoor market is not subject to parking requirements.

### ZONING/ MASTER PLAN DESIGNATION

The subject area is located in the CD/Commercial Downtown Zone and WPR/Waterfront Park and Recreation Zone. Section 4-503(T.1) and Section 6-203(D) require Special Use Permit approval to operate an outdoor food and crafts market.

The subject parcels are also located within the Waterfront Small Area Plan and the Old Town Small Area Plan. The Waterfront Small Area Plan designates the area where the outdoor market is located for active pedestrian uses. The Old Town Small Area Plan promotes mixed-uses along the waterfront area.

## **II. STAFF ANALYSIS**

Staff recommends approval of the applicant's request for amplified background music from outdoor speakers and for unamplified acoustic live entertainment on a three-month trial basis, as stated in Condition #30. The proposal for outdoor music contributes to activating the waterfront, an overarching goal of the Waterfront Small Area Plan. Staff believes that compliance with the SUP conditions in this report and the noise ordinance would adequately minimize noise impacts on surrounding uses. Nonetheless, given the shared property line with the Torpedo Factory Art Center and the center's concerns about outdoor music impacts, staff finds that a trial period would be wise to ensure these regulations are stringent enough to protect the center's continued viability as it implements its Vibrancy and Sustainability Plan. The three-month trial also would provide staff with the opportunity to assess the potential for noise impacts on the quality of the overall Waterfront Plaza experience, that may result from an overlap of outdoor music when simultaneously played at Riverside Taco, Blackwall Hitch and the Chart House, a concern voiced by the Waterfront Commission.

Three months after outdoor music has commenced, the Director of Planning and Zoning would assess the applicant's compliance with the SUP conditions and the noise ordinance (Condition #19) and consider TFAC and other commenters' feedback to determine that outdoor music in the form of amplified background music and unamplified acoustic live music may continue as a permanent feature. Condition #30 also allows the Director to administratively add or amend the SUP conditions in this report related to outdoor music if needed to maintain compatibility with the TFAC and the waterfront public spaces.

The TFAC artists, particularly those with studios overlooking the outdoor food and crafts market, expressed concerns that the outdoor background music and live entertainment would disturb their work during the Monday through Friday work week, between 10 a.m. and 6 p.m. They cited the instance in October 2019 when the zoning inspector found that the outdoor food and crafts market played background music that was heard inside the studios. The applicant agreed to coordinate with artists and management to limit the volume of the background music so that it cannot be heard at the property line inside the TFAC, as outlined in Condition #19.

The TFAC management concurred with the concerns of the artists regarding the potential noise impacts of the proposed unamplified acoustic live entertainment. The applicant supported scheduling live entertainment between the hours of 6 p.m. to 11 pm, Monday through Friday and until 11 p.m. on Saturdays, Sundays and holidays, regulated in Condition #31. He added that he would work to coordinate live music scheduling with the TFAC. Although the TFAC group found the weekday hours for live entertainment acceptable, they found that weekends and holidays could be problematic, given that these are the days when artists focus on selling their works and the TFAC rents the facility for private events in the central great hall area. Sentiments were expressed that outside noise could diminish sales and the rental income that is critical to the center's financial viability.

In addition to Conditions #19 and #31, staff believes the noise ordinance would play a prominent role in limiting noise impacts and would allow for the uses to operate harmoniously. The three-month trial for outdoor music would provide the opportunity to either prove or disprove that it adequately controls noise. As it relates to the outdoor live entertainment in the central business district, the application of the noise ordinance (Sec. 11-5-4.1) requires between the hours of 7 a.m. and 11 p.m., "no sound generation shall result in sound having a volume of 75 db(A) or more, at a distance greater than 10 feet from the place at which the sound is being generated or produced, for an aggregate duration of time greater than 60 seconds in any one hour period." This presumes the possibility that artists in studios above Riverside Taco might be able to hear sustained, low level sound, generally equating to the noise level of a conversation, in their studios on weekends and holidays. Staff considers this to be a reasonable noise level as the waterfront area on warm-weather weekends and holidays is a hub of activity, with noise that already affects the TFAC from large groups of people gathering, boat shuttles, and overhead airplanes.

Further, it is unlikely that outdoor music noise in compliance with the noise ordinance provisions would be heard in the great hall during TFAC rental events, such as weddings. The great hall is located approximately 60 feet from the great hall and studio spaces are located in between it and Riverside Taco. Outdoor music, that could be heard at generally as a conversation 10 feet into



the studios closest to the outdoor food and craft market, would be indistinguishable in the great hall.

On another matter, it has been brought to staff's attention that some passers-by do not perceive the seating area at the outdoor market to be open to the public. To improve that perception, the applicant has confirmed the posting of more prominent signage indicating that the public is welcome to sit in the 90-seat area without purchasing items at the food truck.

In summary, the addition of music to an outdoor, community space is elemental to the creation of a lively, warm, and welcoming waterfront. Although the staff analysis supports the position that the SUP conditions and noise ordinance would sufficiently limit noise disturbances, it also acknowledges the importance of testing the effects of outdoor music in compliance with these regulations for three-months to ensure compatibility with the TFAC and waterfront area. If it is found that after three months negative impacts result, the Director of Planning and Zoning would have the opportunity to either determine that outdoor music should be suspended or to administratively add and amend SUP conditions to mitigate impacts, allowing continuation of the outdoor music feature.

Subject to the conditions in Section III of this report, staff recommends approval of the Special Use Permit Request.

### **III. RECOMMENDED CONDITIONS**

Staff recommends *approval* subject to compliance with all applicable codes and ordinances and the following conditions:

1. The special use permit shall be granted to the applicant only or to any corporation in which the applicant has a controlling interest. (P&Z) (SUP #2018-0111)
2. The hours of operation shall be limited to 7 a.m. to 11 p.m., daily. (P&Z) (SUP #2018-0111)
3. The applicant shall post the hours of operation at the entrance of the business. (P&Z) (SUP #2018-0111)
4. The number of outdoor seats shall be limited to 90. (P&Z) (SUP #2018-0111)
5. The applicant shall conduct employee training sessions on an ongoing basis, including as part of any employee orientation, to discuss all SUP provisions and requirements, and on how to prevent underage sales of alcohol. (P&Z) (SUP #2018-0111)
6. On premises alcohol sales are permitted. (P&Z) (SUP #2018-0111)
7. The layout of the outdoor market shall be consistent with the plans submitted on January 23, 2019. (P&Z) (SUP #2018-0111)

8. The design of the outdoor dining areas and all its components shall be consistent with the quality standards of the King Street Outdoor Dining Design Guidelines. Any outdoor seating areas, including umbrellas, shall not include advertising signage. The applicant shall submit illustrations and specifications to the Director of Planning & Zoning for review and approval. (P&Z) (SUP #2018-0111)
9. The applicant shall use Fayette Alley as a loading and unloading area located off North Union Street for supply deliveries. Loading and unloading may not occur and is strictly prohibited on King Street and on Union Street. Supply deliveries, loading, and unloading activities shall not occur between the hours of 11 p.m. and 7 a.m. (P&Z) (SUP #2018-0111)
10. The outdoor dining area shall be cleaned and washed at the close of each business day that it is in use. (P&Z) (SUP #2018-0111)
11. The applicant shall contact the T&ES parking planner at 703.746.4025 for information about applying to participate in the Discount Parking Program for Employees of Old Town Businesses (or other similar program if one is created) that offers discounted parking at select City parking facilities on evenings and weekends. (P&Z) (SUP #2018-0111)
12. The applicant shall maintain a list of artists with addresses and contact information. (P&Z) (RPCA) (SUP #2018-0111)
13. The applicant shall contribute to public bathroom cleaning and maintenance costs, trash, and electricity to the satisfaction of the Director of the Recreation, Parks and Cultural Activities Department. (P&Z) (RPCA) (SUP #2018-0111)
14. The applicant shall not use generators at the outdoor market. (RPCA) (SUP #2018-0111)
15. The Airstream trailer, umbrellas and other objects or structures higher than six feet shall be located 7'6" from the façade of the Torpedo Factory Art Center building. No structures or object shall exceed 10 feet in height in the outdoor food and crafts area. (P&Z) (RPCA) (SUP #2018-0111)
16. The applicant shall work with the RPCA Office of the Arts on opportunities for artists in the market area. (RPCA) (SUP #2018-0111)
17. The applicant shall ensure that the patron queue line shall be along the eastern edge of the brick patio area and does not extend into the public right of way or impedes entrance to The Torpedo Factory Art Center. (P&Z) (RPCA) (SUP #2018-0111)
18. The applicant shall control air pollution sources resulting from operations at the site and prevent them from leaving the property or becoming a nuisance to neighboring properties, as determined by the Director of Transportation and Environmental Services. (T&ES) (SUP #2018-0111)

19. **CONDITION AMENDED BY STAFF:** This use shall comply with the City noise ordinance. Amplification is only permitted in association with a special event that requires a permit from Recreation, Parks, and Cultural Activities (RPCA) Department or in the form of background music until 11 p.m. and cannot be heard at the property line inside the Torpedo Factory. (T&ES) (P&Z) (~~SUP #2018-0111~~)
20. Chemicals, detergents or cleaners stored outside the building shall be kept in an enclosure with a roof. (T&ES) (SUP #2018-0111)
21. Trash and garbage shall be stored inside or in sealed containers that do not allow odors to escape, invasion by animals, or leaking. No trash or debris shall be allowed to accumulate outside of those containers. Outdoor containers shall be maintained to the satisfaction of the Directors of P&Z and T&ES, including replacing damaged lids and repairing/replacing damaged dumpsters. (T&ES) (SUP #2018-0111)
22. Kitchen equipment, including floor mats, shall not be cleaned outside, nor shall any cooking residue or wash water be washed into the streets, alleys or storm sewers. (T&ES) (SUP #2018-0111)
23. Litter on the site and on public rights-of-way and spaces adjacent to or within 75 feet of the premises shall be picked up at least twice a day and at the close of business, and more often if necessary, to prevent an unsightly or unsanitary accumulation, on each day that the business is open to the public. (T&ES) (SUP #2018-0111)
24. The applicant shall maintain a minimum clearance of 13 feet between the north entrance of the Torpedo Factory Art Center and the outdoor market. (T&ES) (P&Z) (RPCA) (SUP #2018-0111)
25. All waste products including but not limited to organic compounds (solvents and cleaners) shall be disposed of in accordance with all local, state and federal ordinances or regulations. (T&ES) (SUP #2018-0111)
26. The applicant shall require its employees who drive to use off-street parking. (T&ES) (SUP #2018-0111)
27. The applicant shall encourage its employees to use public transportation to travel to and from work. The business shall contact Go Alex at [goalex@alexandriava.gov](mailto:goalex@alexandriava.gov) for information on establishing an employee transportation benefits program. (T&ES) (SUP #2018-0111)
28. The applicant shall direct patrons to the availability of parking at nearby public garages and lots and shall participate in any organized program to assist with both employee and customer parking for businesses that is formed as a result of suggested parking strategies in the King Street Retail Strategy (Old Town Area Parking Study). (T&ES) (SUP #2018-0111)



29. The applicant shall provide information about alternative forms of transportation to access the site, including but not limited to printed and electronic business promotional material, posting on the business website, and other similar methods. Contact Go Alex at goalex@alexandriava.gov for more information about available resources. (T&ES) (SUP #2018-0111)
30. **CONDITION AMENDED BY PLANNING COMMISSION:** ~~The Director of Planning and Zoning shall review the special use permit in three months after outdoor music has commenced to determine if the background and live music may continue as a permanent feature of the outdoor food and craft market. The Director may administratively amend and add new conditions regarding outdoor music as necessary. Notwithstanding, Tt~~ 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; (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. (P&Z) (SUP#2018-0111) (PC)
31. **CONDITION ADDED BY STAFF:** Unamplified acoustic limited live entertainment shall be permitted between the hours of 6 p.m. to 11 pm, Monday through Friday and until 11 p.m. on Saturdays, Sundays and holidays. (P&Z)
32. **CONDITION ADDED BY STAFF:** Sound system, speakers, or any corresponding equipment cannot be attached to the building (Torpedo Factory). Applicant shall meet with RPCA staff to discuss how to achieve these goals. (RPCA)
33. **CONDITION ADDED BY PLANNING COMMISSION:** The applicant is permitted to install temporary string lights within the area designated for the outdoor food and crafts market. (PC)

**STAFF:** Tony LaColla, AICP, Division Chief, Land Use Services  
Ann Horowitz, Principal Planner  
Max Ewart, Urban Planner

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**Staff Note:** In accordance with section 11-506(c) of the zoning ordinance, construction or operation shall be commenced and diligently and substantially pursued within 18 months of the date of granting of a special use permit by City Council or the special use permit shall become void.

#### **IV. CITY DEPARTMENT COMMENTS**

Legend: C - code requirement R - recommendation S - suggestion F - finding

Transportation & Environmental Services:

F-1 The existing conditions shall remain applicable for this application. (T&ES)

Code Enforcement:

No comments received

Fire:

No comments received

Health:

No comments received

Recreation, Parks and Cultural Activities

R-1 Sound system, speakers, or any corresponding equipment cannot be attached to the building (Torpedo Factory). Applicant shall meet with RPCA staff to discuss how to achieve these goals.

Police Department:

No comments received



## APPLICATION

## SPECIAL USE PERMIT

SPECIAL USE PERMIT # \_\_\_\_\_

PROPERTY LOCATION: 105 North Union St, Parcel 4B

TAX MAP REFERENCE: 075.01-04-07

ZONE: CD

## APPLICANT:

Name: ARP Waterfront, LLC D/B/A Vola's Dockside Grill

Address: P.O. Box 2937 Duluth, GA 30046

PROPOSED USE: Amend SUP #2018-0111 to permit outdoor loudspeakers and live acoustic entertainment

☒ **THE UNDERSIGNED**, hereby applies for a Special Use Permit in accordance with the provisions of Article XI, Section 4-11-500 of the 1992 Zoning Ordinance of the City of Alexandria, Virginia.

☒ **THE UNDERSIGNED**, having obtained permission from the property owner, hereby grants permission to the City of Alexandria staff and Commission Members to visit, inspect, and photograph the building premises, land etc., connected with the application.

☒ **THE UNDERSIGNED**, having obtained permission from the property owner, hereby grants permission to the City of Alexandria to post placard notice on the property for which this application is requested, pursuant to Article IV, Section 4-1404(D)(7) of the 1992 Zoning Ordinance of the City of Alexandria, Virginia.

☒ **THE UNDERSIGNED**, hereby attests that all of the information herein provided and specifically including all surveys, drawings, etc., required to be furnished by the applicant are true, correct and accurate to the best of their knowledge and belief. The applicant is hereby notified that any written materials, drawings or illustrations submitted in support of this application and any specific oral representations made to the Director of Planning and Zoning on this application will be binding on the applicant unless those materials or representations are clearly stated to be non-binding or illustrative of general plans and intentions, subject to substantial revision, pursuant to Article XI, Section 11-207(A)(10), of the 1992 Zoning Ordinance of the City of Alexandria, Virginia.

Revised: 12/30/19

M. Catharine Puskar, attorney

Print Name of Applicant or Agent

2200 Clarendon Blvd, Suite 1300

Mailing/Street Address

Arlington, VA

City and State

22201

Zip Code

M C Puskar

Signature

12/19/19

Date

703-528-4700

Telephone #

703-525-3197

Fax #

cpuskar@thelandlawyers.com

Email address

ACTION-PLANNING COMMISSION: \_\_\_\_\_ DATE: \_\_\_\_\_

ACTION-CITY COUNCIL: \_\_\_\_\_ DATE: \_\_\_\_\_



**PROPERTY OWNER'S AUTHORIZATION**

As the property owner of see attached, I hereby  
 (Property Address)  
 grant the applicant authorization to apply for the \_\_\_\_\_ use as  
 (use)  
 described in this application.

Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Please Print

Address: \_\_\_\_\_ Email: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

1. Floor Plan and Plot Plan. As a part of this application, the applicant is required to submit a floor plan and plot or site plan with the parking layout of the proposed use. The SUP application checklist lists the requirements of the floor and site plans. The Planning Director may waive requirements for plan submission upon receipt of a written request which adequately justifies a waiver.

☐ Required floor plan and plot/site plan attached.

☐ Requesting a waiver. See attached written request.

2. The applicant is the (check one):

☐ Owner

☐ Contract Purchaser

☒ Lessee or

☐ Other: \_\_\_\_\_ of the subject property.

State the name, address and percent of ownership of any person or entity owning an interest in the applicant or owner, unless the entity is a corporation or partnership, in which case identify each owner of more than three percent.

See attachments.

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## OWNERSHIP AND DISCLOSURE STATEMENT

Use additional sheets if necessary

**1. Applicant.** State the name, address and percent of ownership of any person or entity owning an interest in the applicant, unless the entity is a corporation or partnership, in which case identify each owner of more than three percent. The term ownership interest shall include any legal or equitable interest held at the time of the application in the real property which is the subject of the application.

Name	Address	Percent of Ownership
1. see attachment		
2.		
3.		

**2. Property.** State the name, address and percent of ownership of any person or entity owning an interest in the property located at 105 North Union St. Parcel 4B (address), unless the entity is a corporation or partnership, in which case identify each owner of more than three percent. The term ownership interest shall include any legal or equitable interest held at the time of the application in the real property which is the subject of the application.

Name	Address	Percent of Ownership
1. see attachment		
2.		
3.		

**3. Business or Financial Relationships.** Each person or entity indicated above in sections 1 and 2, with an ownership interest in the applicant or in the subject property are required to disclose **any** business or financial relationship, as defined by Section 11-350 of the Zoning Ordinance, existing at the time of this application, or within the 12-month period prior to the submission of this application with any member of the Alexandria City Council, Planning Commission, Board of Zoning Appeals or either Boards of Architectural Review. **All fields must be filled out completely. Do not leave blank. (If there are no relationships please indicate each person or entity and "None" in the corresponding fields).**

For a list of current council, commission and board members, as well as the definition of business and financial relationship, [click here](#).

Name of person or entity	Relationship as defined by Section 11-350 of the Zoning Ordinance	Member of the Approving Body (i.e. City Council, Planning Commission, etc.)
1. ARP Waterfront LLC	none	
2. Alexandria Waterfront Associates II	none	
3.		

**NOTE:** Business or financial relationships of the type described in Sec. 11-350 that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings.

As the applicant or the applicant's authorized agent, I hereby attest to the best of my ability that the information provided above is true and correct.

12/19/19  
Date

M Catharine Puskas  
Printed Name

  
Signature

SUP # \_\_\_\_\_

If property owner or applicant is being represented by an authorized agent such as an attorney, realtor, or other person for which there is some form of compensation, does this agent or the business in which the agent is employed have a business license to operate in the City of Alexandria, Virginia?

☐ **Yes.** Provide proof of current City business license

☐ **No.** The agent shall obtain a business license prior to filing application, if required by the City Code.

**N/A**

## NARRATIVE DESCRIPTION

**3. The applicant shall describe below the nature of the request *in detail* so that the Planning Commission and City Council can understand the nature of the operation and the use. The description should fully discuss the nature of the activity. (Attach additional sheets if necessary.)**

see attachment

[illegible]



**USE CHARACTERISTICS**

**4.** The proposed special use permit request is for (*check one*):

- ☐ a new use requiring a special use permit,  
☐ an expansion or change to an existing use without a special use permit,  
☒ an expansion or change to an existing use with a special use permit,  
☐ other. Please describe: \_\_\_\_\_

**5.** Please describe the capacity of the proposed use:

A. How many patrons, clients, pupils and other such users do you expect?

Specify time period (i.e., day, hour, or shift).

90 seats available for patrons; number of patrons will vary by season and weather

B. How many employees, staff and other personnel do you expect?

Specify time period (i.e., day, hour, or shift).

3 service staff supporting food/beverage service (lunch through evening/seasonal)

**6.** Please describe the proposed hours and days of operation of the proposed use:

Day:

Daily, Monday through Sunday

Hours:

7 am - 11 pm

**7.** Please describe any potential noise emanating from the proposed use.

A. Describe the noise levels anticipated from all mechanical equipment and patrons.

Minimal noise. Small ventilation fan supporting mobile food service.

B. How will the noise be controlled?

No noise issues anticipated.

- 8.** Describe any potential odors emanating from the proposed use and plans to control them:

Only minor odors associated with serving prepared food and beverage  
~~anticipated.~~

- 9.** Please provide information regarding trash and litter generated by the use.

A. What type of trash and garbage will be generated by the use? (i.e. office paper, food wrappers)  
single use paper and plastic food service items.

B. How much trash and garbage will be generated by the use? (i.e. # of bags or pounds per day or per week)  
Anticipating 2 bags of trash per day.

C. How often will trash be collected?

Daily trash removal.

D. How will you prevent littering on the property, streets and nearby properties?

Service staff to collect litter within seating area and within spaces adjacent or within 75 feet of the premises twice per day. Trash bins to be located at entry/exit to encourage use, no trash is permitted to accumulate outside.

- 10.** Will any hazardous materials, as defined by the state or federal government, be handled, stored, or generated on the property?

☐ Yes.

☒ No.

If yes, provide the name, monthly quantity, and specific disposal method below:

n/a

- 11.** Will any organic compounds, for example paint, ink, lacquer thinner, or cleaning or degreasing solvent, be handled, stored, or generated on the property?

☐ Yes.      ☒ No.

If yes, provide the name, monthly quantity, and specific disposal method below:

n/a

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- 12.** What methods are proposed to ensure the safety of nearby residents, employees and patrons?  
n/a

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## **ALCOHOL SALES**

- 13.** A. Will the proposed use include the sale of beer, wine, or mixed drinks?

☒ Yes      ☐ No

If yes, describe existing (if applicable) and proposed alcohol sales below, including if the ABC license will include on-premises and/or off-premises sales.

On premise sale of alcohol.

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**PARKING AND ACCESS REQUIREMENTS**

- 14.** A. How many parking spaces of each type are provided for the proposed use:

0 \_\_\_\_\_ Standard spaces  
 0 \_\_\_\_\_ Compact spaces  
 0 \_\_\_\_\_ Handicapped accessible spaces.  
 0 \_\_\_\_\_ Other.

Planning and Zoning Staff Only

Required number of spaces for use per Zoning Ordinance Section 8-200A \_\_\_\_\_

Does the application meet the requirement?

☐ Yes ☐ No

- B. Where is required parking located? (*check one*)

☐ on-site

☐ off-site

If the required parking will be located off-site, where will it be located?

Waterfront parking exemption \_\_\_\_\_

**PLEASE NOTE:** Pursuant to Section 8-200 (C) of the Zoning Ordinance, commercial and industrial uses may provide off-site parking within 500 feet of the proposed use, provided that the off-site parking is located on land zoned for commercial or industrial uses. All other uses must provide parking on-site, except that off-street parking may be provided within 300 feet of the use with a special use permit.

- C. If a reduction in the required parking is requested, pursuant to Section 8-100 (A) (4) or (5) of the Zoning Ordinance, complete the PARKING REDUCTION SUPPLEMENTAL APPLICATION.

**☐ Parking reduction requested; see attached supplemental form**

- 15.** Please provide information regarding loading and unloading facilities for the use:

- A. How many loading spaces are available for the use? \_\_\_\_\_

Planning and Zoning Staff Only

Required number of loading spaces for use per Zoning Ordinance Section 8-200 \_\_\_\_\_

Does the application meet the requirement?

☐ Yes ☐ No

- B. Where are off-street loading facilities located? Fayette Alley located off North Union
- \_\_\_\_\_
- C. During what hours of the day do you expect loading/unloading operations to occur?  
7 am - 11 pm
- \_\_\_\_\_
- D. How frequently are loading/unloading operations expected to occur, per day or per week, as appropriate?  
Daily
- \_\_\_\_\_

- 16.** Is street access to the subject property adequate or are any street improvements, such as a new turning lane, necessary to minimize impacts on traffic flow?

Existing access is adequate.

\_\_\_\_\_

## **SITE CHARACTERISTICS**

- 17.** Will the proposed uses be located in an existing building? ☐ Yes ☒ No
- Do you propose to construct an addition to the building? ☐ Yes ☒ No
- How large will the addition be? 0 square feet.

- 18.** What will the total area occupied by the proposed use be?

2000 sq. ft. (existing) + 0 sq. ft. (addition if any) = 2000 sq. ft. (total)

- 19.** The proposed use is located in: *(check one)*

- ☐ a stand alone building
- ☐ a house located in a residential zone
- ☐ a warehouse
- ☐ a shopping center. Please provide name of the center: \_\_\_\_\_
- ☐ an office building. Please provide name of the building: \_\_\_\_\_
- ☒ other. Please describe: open paved area on east side of Torpedo Factory

**End of Application**

ARP Waterfront LLC SUP Amendment Narrative Description  
101 N Union St Alexandria, VA

The Applicant, Alexandria Restaurant Partners Waterfront, LLC, proposes to amend SUP #2018-0111 at 101 North Union Street. The Property is currently occupied by ARP Waterfront LLC and is operating as a 1,746 square foot outdoor market known as Riverside Taco. The Applicant recently opened the market and is currently operating in the northeastern corner outside of The Torpedo Factory Arts Center. The market consists of an Airstream trailer that provides tacos, soft-drinks, and beer; along with artist space for plein-air artists and 90 seats at picnic tables for general public use. Current hours of operation are from 10:00 am to 11:00 pm. The Applicant now requests an amendment to SUP #2018-0111 to permit amplified outdoor noise and live acoustic entertainment. Upon approval of the new SUP, the Applicant plans to continue operations as before but with the addition of live acoustic entertainment during the existing hours of operation and within the existing site.

The site is located within the Commercial Downtown Zone (CD) and the Waterfront Park and Recreation Zone (WPR), both of which encourage open spaces and promote recreational opportunities. The outdoor market will continue current operations, but would feature live acoustic musicians and/or amplified background music for market patrons and passersby during the hours of operation. This change is consistent with other approvals along the Waterfront, and aligns with the goals of the Waterfront Small Area Plan which calls for a variety of creative, dynamic, and inclusive uses at the Waterfront to create “better public spaces”.

The outdoor market concept is in alignment with the character of the area, and the permission of outdoor amplified noise and live acoustic entertainment serves to enhance and activate the Waterfront. The sites proximity to The Torpedo Factory Arts Center and the current permission for plein-air artists promote visual arts in the existing public spaces. The addition of live acoustic musicians is consistent with this existing character, and adds greater variety to the arts and recreation opportunities at the waterfront.

The outdoor market will continue to operate in the same manner it was approved for in SUP #2018-0111. The same amount of seating, staff, and loading and access. The addition of live entertainment at the waterfront will attract additional pedestrians and promote the use of the public space.

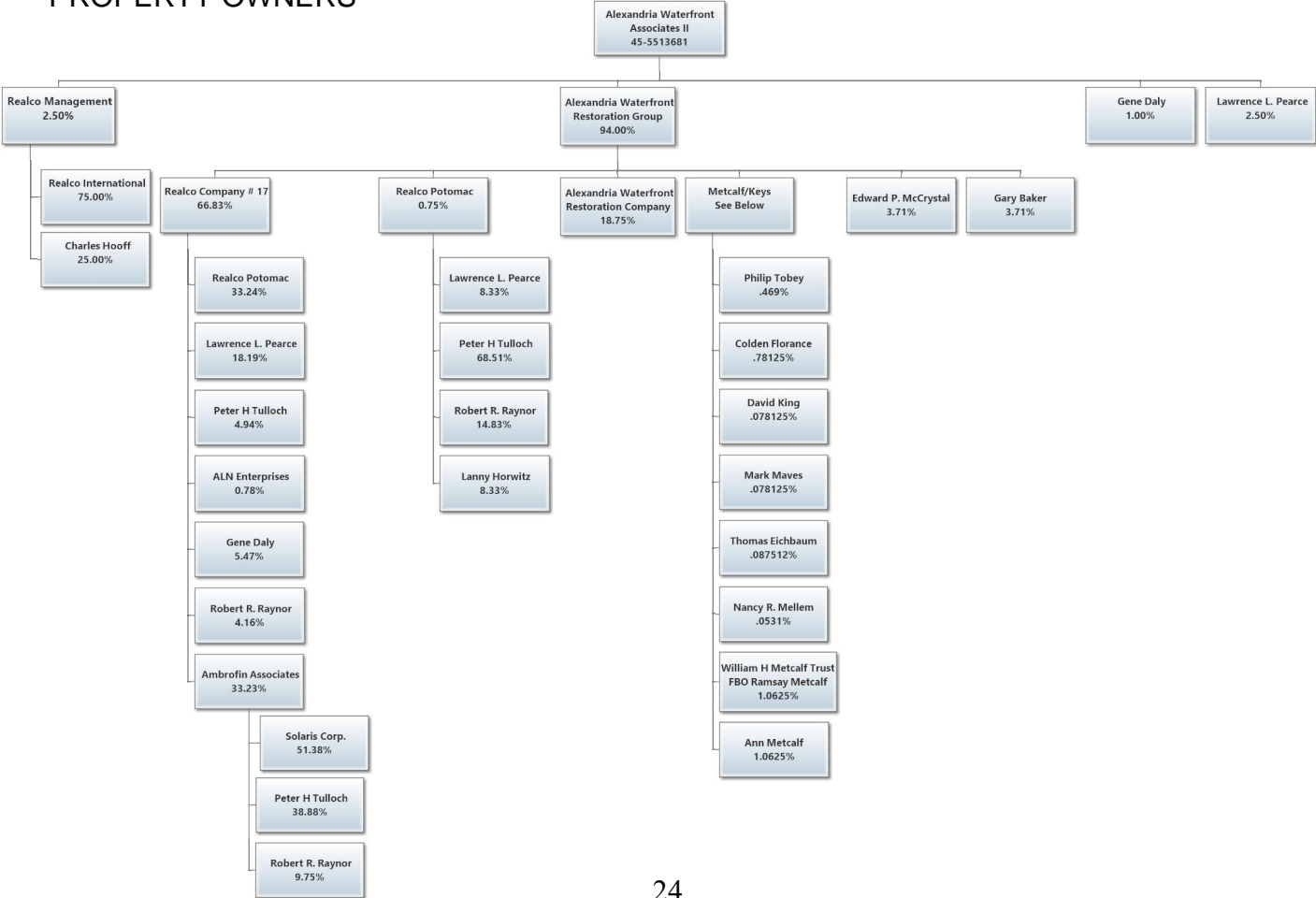


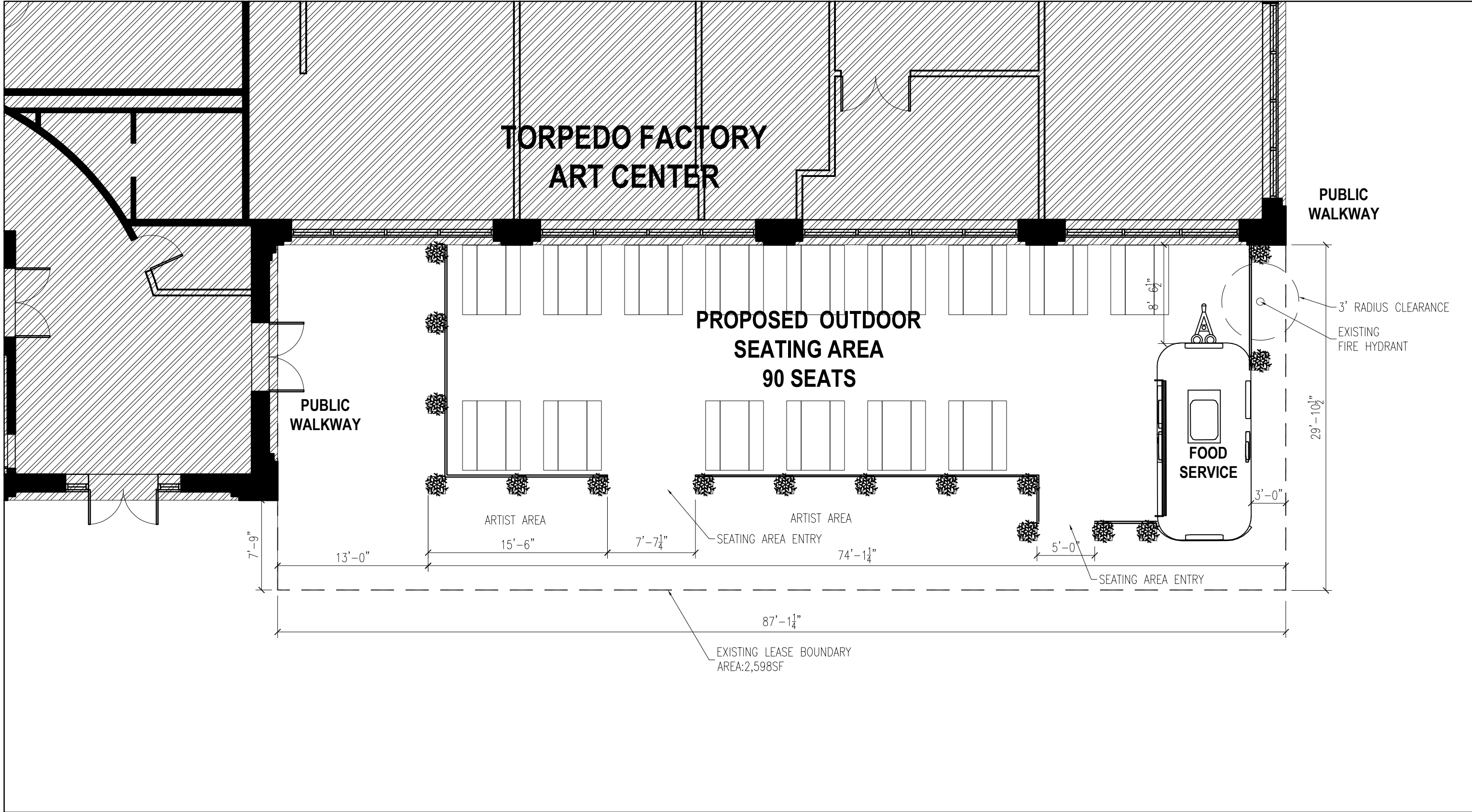
ARP Waterfront, LLC

Ownership (3% or more)

Scott Shaw	15.00%	221 South Pitt St Alexandria VA 22314
David Clapp	15.00%	5066 Staverly Lane Norcross GA, 30092
David Nicholas	15.00%	8 Keith's Lane Alexandria, VA 22314
Jody Manor	10.00%	1821 S Street NW Washington, DC 20009
Tom Herrity	5.69%	709 Jackson St Arlington, VA 22201
Jay Bonnit	5.21%	1200 Villamay Blvd Alexandria, VA 22307
Win Sheridan	4.94%	211 N Union St Suite 220 Alexandria, VA 22314
Jason Yates	3.22%	515 Mt Vernon Ave Alexandria, VA 22301

PROPERTY OWNERS





TORPEDO FACTORY FOOD AND CRAFTS MARKET  
CONCEPT PLAN - JAN 23RD, 2019

DRAWING SCALE:  $\frac{1}{8}" = 1'-0"$

REVISED ON:  
1/23/2019



Alexandria Waterfront Associates II, LP  
201 N Union Street  
Alexandria, VA 22314

Karl Moritz  
301 King Street  
City Hall, Room 2100  
Alexandria, Virginia 22314

Re: Consent to File an Application for a Special Use Permit Amendment  
Applicant: Alexandria Restaurant Partners Waterfront, LLC  
105 N Union St (Tax Map ID 075.01-04-07; the "Property")

Dear Mr. Moritz:

As owner of the above-referenced property, Alexandria Waterfront Associates II, LP hereby consents to the filing of a Special Use Permit application and any related requests on the Property by Alexandria Restaurant Partners Waterfront, LLC.

Very truly yours,

Alexandria Waterfront Associates II



By: Gary Baker

Its: Principal

Date: 12-19-19

ARP-Waterfront, LLC  
P.O. Box 2937  
Duluth, GA 30046

Karl Moritz  
301 King Street  
City Hall, Room 2100  
Alexandria, VA 22314

Re: Authorization to File an Application for a Special Use Permit Amendment  
105 N Union Street (Tax Map ID 075.01-04-07; the "Property")

Dear Mr. Moritz:

ARP-Waterfront, LLC hereby authorizes Walsh, Colucci, Lubeley & Walsh, P.C. to act as agent on its behalf for the filing and representation of an application for a Special Use Permit Amendment on the Property and any related requests.

Very truly yours,

Alexandria Restaurant Partners Waterfront, LLC

  
\_\_\_\_\_

By: Scott Shaw

Its: Mander

Date: 12/9/11



## SUPPLEMENTAL APPLICATION

### RESTAURANT

All applicants requesting a Special Use Permit or an Administrative Use Permit for a restaurant shall complete the following section.

1. How many seats are proposed?  
Indoors: \_\_\_\_\_ Outdoors: \_\_\_\_\_ Total number proposed: \_\_\_\_\_
  
2. Will the restaurant offer any of the following?  
Alcoholic beverages (SUP only) \_\_\_\_\_ Yes \_\_\_\_\_ No  
Beer and wine — on-premises \_\_\_\_\_ Yes \_\_\_\_\_ No  
Beer and wine — off-premises \_\_\_\_\_ Yes \_\_\_\_\_ No
  
3. Please describe the type of food that will be served:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
4. The restaurant will offer the following service (check items that apply):  
\_\_\_\_\_ table service \_\_\_\_\_ bar \_\_\_\_\_ carry-out \_\_\_\_\_ delivery
  
5. If delivery service is proposed, how many vehicles do you anticipate? \_\_\_\_\_  
Will delivery drivers use their own vehicles? \_\_\_\_\_ Yes \_\_\_\_\_ No  
Where will delivery vehicles be parked when not in use?  
\_\_\_\_\_  
\_\_\_\_\_
  
6. Will the restaurant offer any entertainment (i.e. live entertainment, large screen television, video games)?  
\_\_\_\_\_ Yes \_\_\_\_\_ No  
If yes, please describe:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Parking impacts. Please answer the following:

1. What percent of patron parking can be accommodated off-street? (check one)
  - \_\_\_\_\_ 100%
  - \_\_\_\_\_ 75-99%
  - \_\_\_\_\_ 50-74%
  - \_\_\_\_\_ 1-49%
  - \_\_\_\_\_ No parking can be accommodated off-street
  
2. What percentage of employees who drive can be accommodated off the street at least in the evenings and on weekends? (check one)
  - \_\_\_\_\_ All
  - \_\_\_\_\_ 75-99%
  - \_\_\_\_\_ 50-74%
  - \_\_\_\_\_ 1-49%
  - \_\_\_\_\_ None
  
3. What is the estimated peak evening impact upon neighborhoods? (check one)
  - \_\_\_\_\_ No parking impact predicted
  - \_\_\_\_\_ Less than 20 additional cars in neighborhood
  - \_\_\_\_\_ 20-40 additional cars
  - \_\_\_\_\_ More than 40 additional cars

Litter plan. The applicant for a restaurant featuring carry-out service for immediate consumption must submit a plan which indicates those steps it will take to eliminate litter generated by sales in that restaurant.

Alcohol Consumption and Late Night Hours. Please fill in the following information.

1. Maximum number of patrons shall be determined by adding the following:
 

	_____	Maximum number of patron dining seats
+	_____	Maximum number of patron bar seats
+	_____	Maximum number of standing patrons
=	_____	Maximum number of patrons
  
2. \_\_\_\_\_ Maximum number of employees by hour at any one time
  
3. Hours of operation. Closing time means when the restaurant is empty of patrons.(check one)
  - \_\_\_\_\_ Closing by 8:00 PM
  - \_\_\_\_\_ Closing after 8:00 PM but by 10:00 PM
  - \_\_\_\_\_ Closing after 10:00 PM but by Midnight
  - \_\_\_\_\_ Closing after Midnight
  
4. Alcohol Consumption (check one)
  - \_\_\_\_\_ High ratio of alcohol to food
  - \_\_\_\_\_ Balance between alcohol and food
  - \_\_\_\_\_ Low ratio of alcohol to food



**RE: [EXTERNAL]Music****Max Ewart** <Max.Ewart@alexandriava.gov>

Wed 1/22/2020 9:01 AM

**To:** Mary <mhlynch44@gmail.com>**Cc:** Ann Horowitz <ann.horowitz@alexandriava.gov>; Patrick Silva <Patrick.Silva@alexandriava.gov>

Hi Mary,

Thank you for your testimony, we will be sure to take this into consideration when we complete our analysis.

Max

-----Original Message-----

**From:** Mary <mhlynch44@gmail.com>**Sent:** Tuesday, January 21, 2020 6:24 PM**To:** Max Ewart <Max.Ewart@alexandriava.gov>**Subject:** [EXTERNAL]Music

Hi, I'm an artist in the torpedo factory and wanted to vote NO to music for the taco truck. We used to have a fellow for years with his parrots next to the building. The squawking was nerve racking. Hour after hour. Then the kids showed up for several years banging on their buckets all day. Even after several visits by the police, which proved useless, they failed to stop their noise. I was forced out of my studio every weekend. The noise travels up the building and right through our studios. It's impossible to work or to speak with clients or indeed the general public. I hope some consideration is given to us as rent payers in the factory. Thank you. Mary Lynch studio 339.

Sent from my iPad

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**RE: [EXTERNAL]Riverside Taco's SUP****Max Ewart** <Max.Ewart@alexandriava.gov>

Fri 1/24/2020 9:05 AM

**To:** Sissy Cutchen <sissycutchen@yahoo.com>**Cc:** Ann Horowitz <ann.horowitz@alexandriava.gov>; Patrick Silva <Patrick.Silva@alexandriava.gov>

Hello Ms. Cutchen,

Thank you for your testimony. I understand that there will be a meeting this afternoon to discuss this application. If you have the time it would be nice for the applicant to hear your concerns and, hopefully, come to a potential agreement moving forward.

Thanks,

Max

-----Original Message-----

**From:** Sissy Cutchen <sissycutchen@yahoo.com>**Sent:** Thursday, January 23, 2020 1:41 PM**To:** Max Ewart <Max.Ewart@alexandriava.gov>**Subject:** [EXTERNAL]Riverside Taco's SUP

I would like to say music played outside the Torpedo Factory can have a huge impact inside an artist's studio. I was a leaseholder in studio 326 and the restaurant below used to play Calypso music. They would play music constantly and it was very distracting and invasive. When I work I like to listen to books on tape and I also play music very softly in my studio. It is important to me to be able to create the environment I desire inside my own studio to promote creativity. This is why I do not think having outside music is a good idea.

Thank you,  
Sissy Cutchen

Contemporary American Folk Art

703.283.1314

Sissysfolkart.com

Sissysfolkart.etsy.com

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**RE: [EXTERNAL]music behind the Torpedo Factory Art Center****Max Ewart** <Max.Ewart@alexandriava.gov>

Mon 1/27/2020 9:03 AM

**To:** lori@lorikatz.com <lori@lorikatz.com>**Cc:** Patrick Silva <Patrick.Silva@alexandriava.gov>

Hello Lori,

Thank you for sending over this testimony. We are collecting these and will take it into consideration during our analysis. Hopefully the exercise this week proves fruitful and the placement of the speakers mitigates any impact.

Best,

Max

---

**From:** lori@lorikatz.com <lori@lorikatz.com>**Sent:** Saturday, January 25, 2020 9:18 PM**To:** Max Ewart <Max.Ewart@alexandriava.gov>**Subject:** [EXTERNAL]music behind the Torpedo Factory Art Center

Thanks very much for participating in Friday's meeting re music behind the Torpedo Factory Art Center.

To reiterate what I verbalized during the meeting:

I will be negatively impacted by music, acoustic and/or amplified, playing outside my studio (#6). Music will intrude upon conversation with visitors to my studio and will disrupt my creative process. Imagine music playing outside one's office window....my studio is my office.

I am already affected by music coming from the speakers placed at the base of the TF wall on occasion and make do with noise cancelling headphones as necessary. Far from an ideal situation; headphones limit conversation with visitors to my studio and prevent the mission of educating visitors about what happens in our studios.

I am one of many who will be impacted by this noise.

While there may be no legal restriction that applies, this is about being a "good neighbor". A good neighbor does not take calculated actions to the detriment of his neighborhood.

I ask you to recommend that the permit for music be refused.

Best,

Lori Katz

Lori Katz

lorikatz.com

[lori@lorikatz.com](mailto:lori@lorikatz.com)

703-475-1640

---

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**FW: [EXTERNAL]SUP #2019-00118**

Max Ewart <Max.Ewart@alexandriava.gov>

Wed 2/19/2020 2:04 PM

To: Patrick Silva <Patrick.Silva@alexandriava.gov>

Cc: Ann Horowitz <ann.horowitz@alexandriava.gov>

Hey Patrick,

Can you include the following email in the documents for 105 North Union.

Max

-----Original Message-----

From: Puskar, M. Catharine <cpuskar@thelandlawyers.com>

Sent: Tuesday, February 18, 2020 7:56 AM

To: Tony LaColla <Anthony.LaColla@alexandriava.gov>

Subject: Re: [EXTERNAL]SUP #2019-00118

Tony - I spoke with Scott. He indicated that they already coordinate with the Torpedo Factory through a master events calendar. He will add acoustic performers to that calendar so the Torpedo Factory knows what to anticipate.

Also, Scott has indicated that he is ok with the 6pm - 11 pm limitation on acoustic music Monday through Friday, but like the ability to have acoustic performers during the day on Sat, Sun and holidays. This would be consistent with the City's goals of promoting tourism and activity on the Waterfront. Please let me know if you are agreeable to this additional revision.

Thanks.

Sent from my iPhone

**FW: 105 North Union**

Max Ewart <Max.Ewart@alexandriava.gov>

Wed 2/19/2020 4:18 PM

To: Patrick Silva <Patrick.Silva@alexandriava.gov>

Cc: Ann Horowitz <ann.horowitz@alexandriava.gov>

Patrick,

Please include this statement from Cathy as well.

Max

---

**From:** Puskar, M. Catharine <cpuskar@thelandlawyers.com>

**Sent:** Wednesday, February 19, 2020 4:18 PM

**To:** Ann Horowitz <ann.horowitz@alexandriava.gov>; Max Ewart <Max.Ewart@alexandriava.gov>

**Cc:** Tony LaColla <Anthony.LaColla@alexandriava.gov>

**Subject:** RE: 105 North Union

I have confirmed with Scott that he will post signage indicating that the seating area is open to the public.

---

**From:** Puskar, M. Catharine

**Sent:** Wednesday, February 19, 2020 3:28 PM

**To:** 'Ann Horowitz' <[ann.horowitz@alexandriava.gov](mailto:ann.horowitz@alexandriava.gov)>; Max Ewart <[Max.Ewart@alexandriava.gov](mailto:Max.Ewart@alexandriava.gov)>

**Cc:** Tony LaColla <[Anthony.LaColla@alexandriava.gov](mailto:Anthony.LaColla@alexandriava.gov)>

**Subject:** RE: 105 North Union

I am checking with the client, but I think that should be ok.

---

**From:** Ann Horowitz <[ann.horowitz@alexandriava.gov](mailto:ann.horowitz@alexandriava.gov)>

**Sent:** Wednesday, February 19, 2020 2:21 PM

**To:** Max Ewart <[Max.Ewart@alexandriava.gov](mailto:Max.Ewart@alexandriava.gov)>; Puskar, M. Catharine <[cpuskar@thelandlawyers.com](mailto:cpuskar@thelandlawyers.com)>

**Cc:** Tony LaColla <[Anthony.LaColla@alexandriava.gov](mailto:Anthony.LaColla@alexandriava.gov)>

**Subject:** RE: 105 North Union

External Sender. Be aware of links, attachments and requests.

Cathy,

Specifically, it has been suggested that more prominent signage is added, indicating that the seating area is open to the public. Is Scott open to this when he reopens during the warmer months? Other thoughts he has are also welcome.

Thanks again.

Ann

---

**From:** Max Ewart <[Max.Ewart@alexandriava.gov](mailto:Max.Ewart@alexandriava.gov)>

**Sent:** Wednesday, February 19, 2020 2:09 PM

**To:** Puskar, M. Catharine <[cpuskar@thelandlawyers.com](mailto:cpuskar@thelandlawyers.com)>

**Cc:** Ann Horowitz <[ann.horowitz@alexandriava.gov](mailto:ann.horowitz@alexandriava.gov)>; Tony LaColla <[Anthony.LaColla@alexandriava.gov](mailto:Anthony.LaColla@alexandriava.gov)>  
**Subject:** 105 North Union

Hey Cathy,

I wanted to follow up about the public availability of the seating area. Has Scott indicated any specific things that he plans to implement when opened back up?

Thanks,

Max

**Max Ewart**  
Planner I  
703-746-3863  
301 King Street  
Suite 2100  
Alexandria, VA 22314

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