

# TOWN OF VIENNA

## MEMORANDUM

TO: Planning Commission

FROM: Patrick J. Mulhern, AICP, Director of Planning & Zoning

DATE: June 5, 2015

SUBJECT: Staff Report for the Regular Meeting of June 10, 2015

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GENERAL NOTE: Comments from Public Works Department Staff have been provided for each agenda item, as appropriate and in the form of a separate memorandum to the Planning Commission.

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### ITEM NO. 1:

Recommendation to the Mayor and Town Council **proposed ordinance** to amend the Code of the Town of Vienna, Chapter 18, Zoning, Article 2, Definitions, and Article 23, Board of Zoning Appeals, updating Variance Standards consistent with the Code of Virginia.

#### *Introductory Comments:*

House Bill 1849, amending the standards related to variances and the powers and proceedings of the Board of Zoning appeals, received approval from the General Assembly and was signed into law on March 26, 2015. The new provisions will take effect on July 1. Most significantly, the standards by which a variance may be granted have been changed from "unnecessary or unreasonable hardship to the property owner" to "unreasonably restrict the utilization of the property."

As a result of this revision to the Code of Virginia, it is necessary to update the Town Code to reflect the new language. The proposed ordinance language is taken directly from the Code of Virginia. On June 1, 2015, the Town Council referred the item to the Planning Commission for recommendation.

#### *Required Board Approvals / Town Staff Recommendations:*

Amendments to Chapter 17 and 18 of the Vienna Town Code require the prior review and recommendation at a public hearing held by the Planning Commission before adoption by the Mayor and Town Council after they conduct their own public hearing. Staff recommends approval of the proposed ordinance, consistent with recent changes to the Code of Virginia.

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In accord with the provisions of § 15.2-2285.B. of the Code of Virginia, the Planning Commission has 100 days after the first public hearing to formulate a recommendation and forward same to the Mayor and Town Council. In this particular case, the new Code of Virginia requirements go into effect on July 1, 2015.

ITEM NO. 2:

Recommendation to the Board of Zoning Appeals for approval of a **conditional use permit** for outdoor seating for Aldeerah Restaurant, located at 262 Cedar Lane SE, , in the C-1, Local Commercial zone. Application filed by Mohamad Murtada, agent for Mody Al Khalaf, owner. (To be scheduled for the Board of Zoning Appeals meeting of June 17, 2015).

*Introductory Comments / Characteristics of the Existing Property:*

The subject property, the Cedar Park Shopping Center, is zoned C-1, Local Commercial. An existing restaurant ("Aldeerah") currently occupies a 3,200 square foot tenant space, Unit F, at the shopping center. The restaurant currently has a total seat count of 72 seats and is applying for a conditional use permit for 12 additional outdoor seats, totaling 84 seats. The restaurant has been permitted a total of 102 seats.

*Proposed Development Activities:*

The outdoor seating area will be located in front of the restaurant on a section of the walkway in front of the shopping center. The section is totally enclosed from the top by an overhang and partially enclosed on three sides by brick columns and walls. The applicant proposes three tables with 4 seats each. The area between the section of walkway used for seating and the restaurant, approximately 58 inches wide, would remain unobstructed for pedestrians. The proposed hours of use are from 12PM to 10PM from Monday through Thursday, 12PM to 10:30PM on Friday, 11AM to 10:30PM on Saturday and 11AM to 10PM and Sunday.

No exterior modifications are required for this outdoor seating.

*Required Board Approvals / Town Staff Recommendations:*

Sections 18-74C and 18-210I of the Vienna Town Code requires the acquisition of a **Conditional Use Permit** prior to the "consumption of meals...at sidewalk tables directly adjoining" a building in which a restaurant is located. The conditional use permit process requires a public hearing and approval from the Board of Zoning Appeals after prior review and recommendation by the Planning Commission. Staff recommends approval of the application, subject to a condition limiting the hours of use as described above.

ITEM NO. 3:

Recommendation to the Board of Zoning Appeals for approval of a **conditional use permit** for outdoor seating for MOD Super Fast Pizza, located at 180-B Maple Avenue West, in the C-2, General Commercial zone. Application filed by Jennifer Nelson of FRCH / Architecture Inc. P.C., agent for MOD Super Fast Pizza LLC, owner. *(To be scheduled for the Board of Zoning Appeals meeting of June 17, 2015).*

***Introductory Comments / Characteristics of the Existing Property:***

The subject property, part of the Vienna Shopping Center, is zoned C-2, General Commercial and is located. The 2,654 square foot tenant space is partitioned from the former Magruders tenant space and is located on the northern side of the former grocery store. The new restaurant ("MOD Pizza") will have a total seat count of 43 interior seats and are applying for a conditional use permit for 10 additional outdoor seats, totaling 54 seats. The total number of seats is permitted by the Town Code.

***Proposed Development Activities:***

The outdoor seating area, approximately 402 square feet in size, will be located immediately in front of the new restaurant and will be gated off with a black metal hand rail. (Please note that the entire area fronting the shopping center will be renovated in the upcoming months as part of a site plan modification approved for the Vienna Shopping Center.) Five tables and 10 chairs will be installed. An unobstructed pedestrian zone is located in between the hand rails and the curb. The proposed hours of use are from 10:30 AM to 9PM from Sunday through Thursday and 10:30AM to 10PM on Friday and Saturday.

***Required Board Approvals / Town Staff Recommendations:***

Sections 18-74C and 18-210I of the Vienna Town Code requires the acquisition of a **Conditional Use Permit** prior to the "consumption of meals...at sidewalk tables directly adjoining" a building in which a restaurant is located. The conditional use permit process requires a public hearing and approval from the Board of Zoning Appeals after prior review and recommendation by the Planning Commission. Staff recommends approval of the application, subject to a condition limiting the hours of use as described above and the requirement that employees park in the parking lot located to the rear of the shopping center. This will help ensure adequate parking for customers.

ITEM NO. 4:

Recommendation to the Board of Zoning Appeals for approval of a **conditional use permit** for outdoor seating for Caboose Brewery, located at 520 Mill Street NE, in the CM, Limited Industrial zone. Application filed by Matt Greer of Caboose Brewery, owner. *(To be scheduled for the Board of Zoning Appeals meeting of June 17, 2015).*

***Introductory Comments / Characteristics of the Existing Property:***

The subject property (addressed between 510 – 520 Mill Street NE) is zoned C-M, Limited Industrial and is the last privately-owned parcel along Mill Street NE prior to entry into the Town's Northside Property Yard (600 Mill Street NE). The 65,370 square-foot (1.509 acres) site is improved by the 24,000-square-foot warehouse building with 12 separate entry points, parking for approximately 56 vehicles and an ingress-egress easement in the center drive for use by Town vehicles. The brewery received a Conditional Use Permit for on February 21, 2014, followed by a Certificate of Occupancy on June 4, 2014. Subsequently, a temporary 60-day Certificate of Occupancy was issued for the restaurant on May 13, 2015 subject to several conditions, including the submittal for the conditional use permit for outdoor seating.

The restaurant associated with the brewery is permitted a total of 55 seats, of which they are requesting 20 seats be allowed outdoors. The total number of seats is permitted by the Town Code.

***Proposed Development Activities:***

The outdoor seating area, approximately 1,025 square feet in size, will be located immediately adjacent to the new brewery and restaurant. It can be accessed directly from the parking area, or from two doors leading to the restaurant (one ADA-accessible). Four tables and 20 chairs will be installed. Subject to approval by the Board of Architectural Review, a fence will be located between the seating area and the Town's Northside Property Yard. The seating area is not adjacent to any residential uses.

The proposed hours of use are from 4PM to 10PM on Tuesday and Wednesday, 4PM to 11PM on Thursday and Friday, 12PM to 11PM on Saturday, and 12PM to 9PM on Sunday.

***Required Board Approvals / Town Staff Recommendations:***

Sections 18-74C and 18-210I of the Vienna Town Code requires the acquisition of a **Conditional Use Permit** prior to the "consumption of meals...at sidewalk tables directly adjoining" a building in which a restaurant is located. The conditional use permit process requires a public hearing and approval from the Board of Zoning Appeals after prior review and recommendation by the Planning Commission. Staff recommends approval of the application, subject to a

condition limiting the hours of use as described above. Further, the applicant should agree not to extend the seating area to adjacent properties.