




# STAFF REPORT COVER SHEET

June 5, 2019

<b>Addresses:</b>	133 Maple Avenue East, Units 100/100A	<b>Case Number:</b>	PF-18-19-SP/CUP
<b>Public Meeting Date:</b>	6/5/2019	<b>Applicant:</b>	Adam Lubar of Speakeasy Restaurants LLC
<b>Board/Commission:</b>	Board of Zoning Appeals	<b>Owners:</b>	United Facilities LLC
<b>Application Date:</b>	March 22, 2019	<b>Existing Zoning:</b>	C-2 and RM-2
<b>Deadline for Action:</b>	June 20, 2019	<b>Existing Land Use:</b>	Office
<b>Brief Summary of Request:</b>	Recommendation to Board of Zoning Appeals for two conditional use permits. One is for outdoor seating and one is for live entertainment.		
<b>Site Improvements:</b>	Improvements include outdoor patio areas in the front of the building and at the back of the building.		
<b>Size of Property:</b>	59,472 square feet/1.37 acres		
<b>Public Notice Requirements:</b>	<ul style="list-style-type: none"><li>- Written notice of hearing date sent to the applicant by registered mail on May 25, 2019</li><li>- Placard sign on property advertising the application and meeting date</li><li>- Advertisement of meeting for two successive weeks in a newspaper having paid general circulation in the Town prior to Board of Zoning Appeals. Meeting published in Washington Times on May 22, 2019 and May 29, 2019.</li></ul>		
<b>Brief Analysis</b>			
<b>PROPERTY HISTORY</b> <p>The subject properties currently consist of a 3-story, condominium office building, known as the Vienna Professional Center. The building was built in 1983 and consists of 8 separate units (including the basement).</p>			
<b>COMPATIBILITY WITH THE COMPREHENSIVE PLAN</b> <p>One of the goals listed in the Comprehensive Plan (Page 19) is to encourage a vibrant Central Business District. Staff believes that a restaurant of this size with outdoor seating will help encourage a more vibrant Central Business District.</p>			
<b>COMPATIBILITY WITH THE ZONING ORDINANCE</b> <p>The proposed restaurant use is allowed. The applicant received approval from Town Council for a parking modification on September 17, 2018. The proposal is compatible with the Zoning Ordinance with the approval of two conditional use permits, per Section <a href="#">18-210.I</a> for outdoor seating and per Section <a href="#">18-210.S</a> for live entertainment.</p>			
<b>Attachments:</b>	Application <input checked="" type="checkbox"/> CUP Statement <input checked="" type="checkbox"/> Site Plan with Proposed Improvements <input checked="" type="checkbox"/> Live Music Schedule & Description <input checked="" type="checkbox"/> Clerk's Certification Letter <input checked="" type="checkbox"/> Planning Commission Recommendation Memo <input checked="" type="checkbox"/>		
Author: Kelly O'Brien, AICP, Principal Planner			

ITEM NO. 3:

Recommendation by the Planning Commission to the Board of Zoning Appeals for conditional use permits for outdoor dining and live entertainment for a restaurant use, located at 133 Maple Avenue East, in the C-2 General Commercial and RM-2 Multifamily, Low Density zoning districts. Application filed by Adam Lubar of Speakeasy Restaurants LLC.

***Introductory Comments & Background:***

The subject site includes a three-story condominium office building, known as the Vienna Professional Center. The tan brick building, built in 1983, consists of 19,900 square feet of net floor area and includes seven (7) separate units, excluding the basement. The building fronts Maple Avenue East and is located near the center of the Central Business District.

The office building site is primarily zoned C-2 General Commercial. A small portion of the parking lot, located at the southern end of the site, is zoned RM-2 Multifamily, Low Density. A conditional use permit was granted in 1982 for the parking area within the RM-2 zoning district.

The building is surrounded by a mix of uses, including civic, commercial, and parks and recreational land uses. The Vienna Elementary School abuts the site on the southern side, the Patrick Henry Library abuts the site on the western side, and the Washington and Old Dominion Railroad Regional Park abuts the site on the eastern side. Commercial buildings are located across Maple Avenue.

Cardinal Bank previously occupied subject units 100 and 100A until they vacated the building approximately two years ago. The tenant space has remained vacant since then.

***Current Proposal:***

The applicant is proposing a restaurant for the first floor of the office building, which includes approximately 6,700 square feet. The proposed restaurant includes indoor seating and outdoor patio space in the front of the building and at the rear of the building. The applicant received a parking modification from Town Council on September 17, 2018 to permit a maximum of 300 seats. The applicant's current plans show 249 seats total for both indoor (159) and outdoor (90); 51 seats less than permitted.

**Outdoor Seating**

The outdoor seating areas, including the patio near the front of the building and the rear patio located in the location of the existing bank teller drive-thru canopy, accommodate 90 seats.

Back Bar Patio (Front of Building): 12 seats

Deck (Rear of Building): 78 seats (Chairs and Bench seating)

### Live Entertainment

The applicant has submitted a “Live Music Schedule & Description” that details the type of entertainment and times proposed. The restaurant does not intend to become a music venue. The purpose of the live entertainment, as stated in the CUP application, is to “add to the overall ambience of the restaurant.” Locations for the acoustic performers are shown on the back deck near the proposed fire pit on the attached plans. Outdoor performances are proposed as weather permits.

### ***Required Commission/Board approvals:***

Review of the application (as established at §§ 18-209:216 of the Vienna Town Code) requires initial consideration and recommendation by the Planning Commission and a subsequent public hearing with sworn testimony before the Board of Zoning Appeals, where the application will be acted upon.

The Town of Vienna Code of Ordinances (Article 21. § 18-31) states conditional use permits must have a decision by the Board of Zoning Appeals within 90 days of the submission of a complete application.

### ***Relevant Regulations:***

#### **Town Code**

##### [Sec. 18-209. - Use permit subject to certain conditions.](#)

The board of zoning appeals may issue a use permit for any of the uses enumerated in section 18-210 in response to an application therefor, provided the use for which the permit is sought:

- (1) Will not affect adversely the health or safety of persons residing or working in the neighborhood of the proposed use;
- (2) Will not be detrimental to the public welfare or injurious to property or improvements in the neighborhood; and
- (3) Will be in accord with the purposes of the Town's master plan.

In granting any use permit, the board of zoning appeals may impose such conditions as it may deem in the public interest, including limiting the duration of a permit, and as will ensure that the use will conform to the foregoing requirements and that it will continue to do so, and may require a guarantee or bond to insure that the conditions imposed are being and will continue to be complied with. The board may revoke a use permit if the board determines that there has not been compliance with the terms and conditions of the permit. No permit may be revoked except after notice and hearing as provided by Code of Virginia, § 15.2-2204.

## Virginia State Code

### [§ 15.2-2309. Powers and duties of boards of zoning appeals.](#)

6. To hear and decide applications for special exceptions as may be authorized in the ordinance. The board may impose such conditions relating to the use for which a permit is granted as it may deem necessary in the public interest, including limiting the duration of a permit, and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with.

No special exception may be granted except after notice and hearing as provided by § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first-class mail rather than by registered or certified mail.

### *Staff Analysis:*

The restaurant use is permitted per Section [18-88.A](#) through reference to Section [18-72.A](#). Staff finds that the proposed outdoor seating in the front and rear of the building will help add vibrancy to the surrounding area. The live entertainment proposed will not create a nuisance based on the times proposed, type of entertainment and location of the business.

Furthermore, since the proposed location is an office building, no other uses, besides professional and office uses, may occupy the second and third floor. Section [18-72.B.5](#) states, "Office buildings, with the exception of the ground floor, shall be occupied solely for professional use or the administrative activities accessory to other than professional uses." There are no residences located near the location and the times proposed for the live entertainment are after the operating hours of the businesses in the building.

### *Planning Commission CUP Recommendations:*

The Planning Commission considered this matter at its regular meeting on May 8, 2019. Upon the conclusion of their analysis, Commissioner Couchman made a motion for recommendation to the Board of Zoning Appeals for approval of Conditional Use Permits for outdoor dining and live entertainment for a restaurant use, located at 133 Maple Avenue East. For more information, please reference the memo from the Planning Commission Chair included as an attachment.

Motion: McCullough

Second: Couchman

Carries: 7-0 (1 absent)