



MEMORANDUM

October 4, 2022

TO: Mayor & City Council
Hamid Khaleghipour, Interim City Manager

FROM: Ken Schmidt, Director of Development Services and Planning

SUBJECT: Ambrosia Café – Post Commission Meeting Analysis

Background

At the September 20, 2022 Planning and Zoning Commission meeting, the Commission voted 5-1 to recommend denial of a Special Use Permit (SUP) for a new restaurant to occupy an existing freestanding restaurant building located at 15375 Addison Road. This proposed restaurant, Ambrosia Café, is a concept developed by the new owner of the property. Programming for Ambrosia Cafe will include coffee service, dining, and hookah. The operating hours presented to the Commission were 6 AM to 12 AM, Monday – Thursday and 6 AM to 2 AM, Friday – Sunday.

The Commission's recommendation was based on concerns related to parking and business operations, specifically as it relates to late hour activities.

The purpose of this memo is to provide additional context regarding the history of the property, staff's proposed regulatory approach to this restaurant proposal, and plan and operational modifications that the applicant has proposed since the Planning and Zoning Commission meeting.

Zoning and Occupancy History

The Town's Development Services Department regulates restaurant use and occupancy through the administration of the Town's SUP and Certificate of Occupancy (CO) application processes.

When a restaurant is proposed at a location where an SUP has not previously been approved, the owner must obtain an SUP, a conditional zoning entitlement that allows the Town to evaluate use and site specific conditions presented in site planning documents for consideration by the Planning and Zoning Commission and City Council. An SUP for a restaurant with alcohol sales was first approved for this property in [1983](#). In 1991, an [amendment to this SUP](#) was approved to support a different restaurant concept.

When a restaurant tenant seeks to operate in an existing restaurant space that has an existing SUP, that potential tenant must file a CO application with the Town. As part of the CO process, the Town reviews the proposed occupancy for compliance with existing and applicable zoning, building, fire, health, and site development codes. Since the last SUP was approved, Development Services staff has record of seven COs being issued for different restaurant occupancies at that property. For each of those CO applications, a zoning reviewer was tasked with confirming zoning compliance for the proposed occupant.

Most recently, in October 2020, staff approved a CO application for Nine45, a nightclub with food service, alcohol sales, and hookah. This establishment frequently employed a DJ, required payment for parking, entry and/or to secure a table, and had themed party events. A CO application was submitted for this business after staff observed it operating without a CO.

In September 2015, a similar nightclub establishment, Villa Lounge, also received CO approval to operate under the previously adopted SUP from 1991. Food service was once again a component of the business programming, with alcohol sales, hookah, and nightclub activities being major components of the programmed offerings.

Parking Conditions

The Town defines parking requirements for common land uses through our Zoning Ordinance and Building Codes. Restaurants are typically required to be parked at a ratio of one parking space per 70 square feet of building floor area and one accessible parking space for every 25 parking spaces in a parking lot that is 100 spaces or less in size.

When this property was originally zoned for restaurant use in 1983, the gross building floor area was 4,350 square feet. Applying the Town's parking requirements to this floor area would result in a requirement to have 62 off-street parking spaces, with three of those being accessible spaces. When this SUP was approved in 1983, the Town approved a site plan with only 50 parking spaces, two of which were accessible parking spaces. This same parking condition was continued when the SUP was amended in 1991 and is the parking that would be required if an occupant were to use the property under the existing zoning. It should also be noted that 3 of the required parking spaces were provided within the right-of-way for Lindbergh Drive. Current conditions suggest that 6 – 8 spaces are no longer striped, allowing for a continuous drive aisle to provide circulation between Addison Road and Lindbergh Drive.

The staff report and presentation for the Planning and Zoning Commission meeting poorly addressed this issue by including language that would suggest there has not been parking challenges on this site in the past. Unfortunately, that was not an accurate statement, but it is a condition that has significantly pre-dated the current application. The nexus of the parking problems on this site is that the initial SUP allowed the site to be under parked by 12 spaces, and as the use of the property changed overtime, it transitioned from food-anchored operations to nightclub and event activities with higher parking demands.

Alcohol Sales and BYOB Restrictions

Previous tenants elected to sell alcohol for on-premises consumption. This was permitted by the existing SUP for alcohol sales and associated TABC permits acquired by the operators through application with the State. The operator of Ambrosia Café, similar to the recently approved restaurant, La Pasha, does not intend to sell alcohol or permit alcohol use on site.

Given the late night hours proposed by both businesses, staff felt that it was appropriate to apply a more restrictive SUP condition prohibiting BYOB service from being offered. Very broadly, where there have been public safety challenges at similarly situated businesses in the region, it has primarily related to establishments that serve as "end of night" venues, where cumulative alcohol consumption throughout the evening, may pose a problem. These establishments frequently utilize BYOB practices to avoid more stringent State and City regulatory oversight.

Prior to applying this condition to both La Pasha and Ambrosia Café, staff consulted with the City Attorney to discuss the appropriateness of this condition. In both cases, the City Attorney has

confirmed that this condition is appropriate to be applied as intended, and that to best address it in the future, a more comprehensive policy may be considered.

Plan and Operation Modifications Following the P & Z Meeting

Following the Planning and Zoning Commission meeting, the property owner submitted an appeal request to the City Secretary and worked with Development Services staff to refine their plans. These efforts have resulted in the following changes for City Council consideration:

	P & Z Proposal	City Council Proposal
Total Square Footage	5,582 SF (existing building + 2 nd floor mezzanine addition)	4,332 SF (removed proposed 2 nd floor mezzanine and created recessed entry)
Parking	38 spaces provided (80 required)	45 spaces provided (62 required)
Hours of Operation	6 AM to 12 AM, Monday – Thursday & 6 AM to 2 AM, Friday - Sunday	6 AM to 12 AM, seven days a week

The property owner did not achieve the 50 spaces that were approved in the previous SUPs. In lieu of achieving full compliance, the property owner added landscape and improved the accessible parking design in order to bring the site into greater compliance with applicable landscape and handicapped accessibility codes.

Conclusion

Under the previous ownership and operators, this has been a challenged property for some time. This change in ownership and operation may or may not improve conditions, as it is speculative and difficult for staff to predict future outcomes for something as unpredictable as a small business, based on site and building plans.

In the consideration of Ambrosia Café, staff believes that the proposed regulatory approach and operator modifications will appropriately address the proposed business. This will result in more restrictive zoning being applied to the site (operating hour and BYOB restrictions, the existing SUP for alcohol sales would also be repealed) and a commitment of the property owner to upgrade the site landscape, parking lot, pedestrian, and handicapped parking facilities.

STAFF RECOMMENDS APPROVAL OF THE APPLICATION AS MODIFIED FOLLOWING THE PLANNING AND ZONING COMMISSION MEETING.