



# Future of Outdoor Dining (FOOD) Study

Transportation Commission

May 25, 2023



# Presentation Outline

1. Study Purpose & Goals
2. Study Schedule
3. Existing Regulations & Guidelines
4. Background of Outdoor Cafes & Temporary Outdoor Seating Areas (TOSAs)
5. Community Engagement
6. Preliminary Recommendations
7. Next Steps



# Study Schedule

**Aug 15, 2022**

County  
Manager  
Removal of  
Emergency  
Order

FOOD Study  
Launch

Sept- Nov '22

## Phase 1

### Information Gathering

- Review of TOSAs & existing policies
- Research benchmark communities
- Community Engagement
  - Online Feedback Form (approx., 2,000 responses)
  - Virtual Roundtable Events (2)

Dec- Feb/Apr '23

## Phase 2

### Information Gathering/ Community Review

- Synthesize findings from Phase 1
- County Board extension of COGO (Jan 2023)

- **Develop & Release Draft Framework with recommendations**
- **Additional Community Engagement Opportunities**

May- July/Aug '23

## Phase 3

### Information Sharing

- Zoning Ordinance Amendments
- Updates to Outdoor Café Guidelines
- Request to Advertise
- Commission Review
- Planning Commission
- County Board

**Aug 15, 2023**

TOSA Program  
Ending

New Outdoor  
Dining  
Regulations in  
Effect

# Study Purpose & Goals

The study will:

- Examine which aspects of the TOSA program should be incorporated into two approval pathways for “permanent” outdoor cafés (*by right, and special exception*)
- Inform other changes to current regulations for managing outdoor cafés, including those located within public space or rights-of-way
- Take lessons learned from the TOSA experience and use them to improve the outdoor café framework, balancing business and public interests

# Overarching Study Themes

## Restaurants as a Public Good

An economically viable food service sector is a critical component of sustainable and active mixed-use neighborhoods.

- A critical placemaking element for residents, office workers and visitors
- Supports a balanced fiscal base...and return to work efforts
- Significant driver of locally-generated taxes
- Supports a diverse economic base and labor force

## Restaurant Recovery and Resiliency

Expanded outdoor dining options with fewer regulatory hurdles will assist in recovery from pandemic-related losses and adaptation to a longer-term “new normal”.

- Indoor seating densities supported by consumer behavior may never reach pre-pandemic
- A significant decline in seating capacity stresses restaurant economics
- Expanded, permanent outdoor seating keeps restaurants in business – and for customers to not seek out choices outside of Arlington

## Different Places and Spaces

Expanded outdoor dining is not one-size fits all – different neighborhoods and the public realm within those neighborhoods may be more appropriate for outdoor dining than others.

- Embracing concept of an appropriate level of urban messiness
- Some neighborhoods, or parts of neighborhoods, are more appropriate for expanded outdoor dining than others
- Need to reflect upon a changing nature of the public realm within this context



A photograph of an outdoor cafe patio. The scene is filled with wooden tables and chairs, many of which are shaded by large blue umbrellas. Some umbrellas have the 'Cuervo' logo on them. In the background, there are buildings, a rainbow flag on a pole, and a thatched roof structure. A chalkboard sign in the foreground reads 'McN...' and 'Happy... 50% OFF bar drinks M-F 3pm-5pm'. Another sign to the left says 'JACK LIVES HERE' and 'Thanks for Masking'. The entire image has a blue color overlay.

# Outdoor Cafes- Existing Regulations & Guidance



# Background

## Outdoor Cafes- Current Approval Process

- **Guidelines for Outdoor Cafes (2013)**
  1. **Private Property**- Administrative approval- Zoning Ordinance
  2. **Public R.O.W. or Public Spaces**- Site Plan or Use Permit approved by County Board

## ARLINGTON COUNTY GUIDELINES FOR OUTDOOR CAFÉS

August 10, 2012  
Updated: May 18, 2013



# Existing Guidance for Outdoor Cafes

## Policies & Regulations:

- Guidelines for Outdoor Cafes (last updated in 2013)
- Arlington County Zoning Ordinance- Section 12.9.15
- Arlington County Retail Plan (2015)
- Master Transportation Plan (MTP) Pedestrian Element (2011)
- Public Spaces Master Plan (2019)

**ARLINGTON COUNTY**  
GUIDELINES FOR OUTDOOR CAFÉS

**Zoning Ordinance**  
Arlington County, Virginia



**Arlington County Retail Plan**

**Master  
Transportation  
Plan**



**Public Spaces  
Master Plan**  
Adopted April 25, 2019





# Other Regulations for Outdoor Cafes

- Virginia Statewide Universal Building Code (VASUBC)
- Virginia Statewide Fire Prevention Code (VAFPC)
- Virginia Alcoholic Beverage Control Authority (VA ABC)
- Guidance for Tents and Heaters
- Encroachment Ordinance (Public ROW)



# Zoning Ordinance Regulations- Overview

**Definition of Outdoor Café-** “an area that contains portable seating and tables, intended solely for the consumption of food and beverages that are also included in the standard menu of the restaurant, outside the exterior walls of the restaurant (excluding rooftops).”

**Outdoor Cafes are an accessory use to the main use of a property as a restaurant**

## **§12.9.15 Use Standards (Private Property):**

- Fixtures cannot be permanently affixed to the ground
- Café cannot be enclosed
- Restrictions on sound, audio or visual entertainment \*
- Should have fewer seats than the indoor portion of the restaurant \*

\* Can be modified by County Board by use permit

## **§12.9.15 Use Standards (Public Right-of-way or areas with easement for public use):**

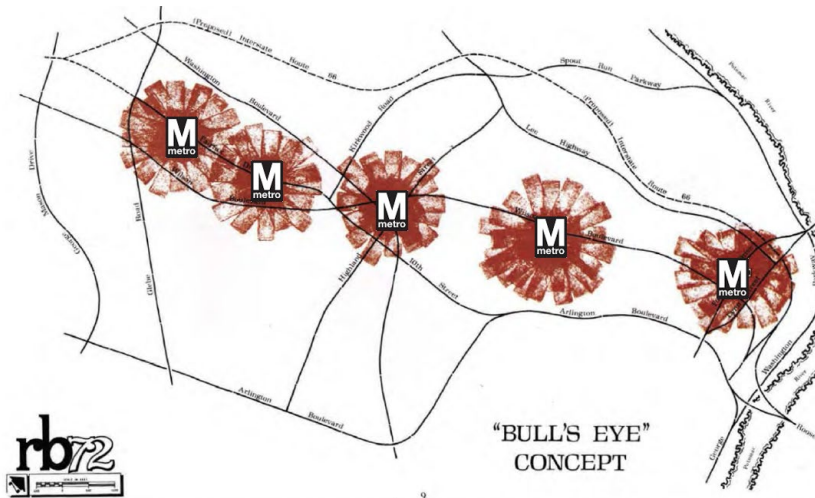
- Subject to approval of use permit by the County Board

**Changes in 2017 to enable use permit modifications for certain standards**



# Zoning Ordinance Regulations- Private Property

- **Currently outdoor cafes on private property can be approved by-right**
- **Parking ratio for restaurants- No changes since 1960**
  - 1 parking space/ 6 seats inside restaurant
- **Restaurants exempted from parking if within 1,000 feet of Metro**
  - County Board can modify parking by use permit
- **The ACZO mandates that parking spaces be available to cars, without obstructions**



# Arlington Retail Plan (2015)

- Outdoor cafes enlivens streetscape
- Provides passive surveillance on the street
- **Action Plan encourages an administrative license process to use public ROW**



<p>Study the application of a process that licenses the use of the public realm, with sufficient criteria to best accommodate outdoor cafes, design elements, merchandise displays, vendors and food trucks.</p> <p>Amend the Zoning Ordinance, if warranted, to facilitate such a process including outdoor seating and the outdoor display of merchandise.</p>	<p>Study a licensing process for use of the public realm;</p> <p>Amend Zoning Ordinance, if warranted</p>	<p>Short - Long term</p>	<p>AED CPHD <b>DES</b> DPR</p>
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# Master Transportation Plan- Pedestrian Element

## Adopted Policy Guidance

***Policy 4 (4): Encourage sidewalk cafes and other streetscape enhancements in the sidewalk. Locate private encroachments in the sidewalk area with sensitivity to sidewalk width, to historic structure and to other obstructions, and subject to periodic review. Safe and convenient pedestrian travel should not be impeded.***

## Sidewalk Design

- Clear Zones may be specified by County sector plans, streetscape standards, or site plan conditions, and in many cases the specified width will exceed the six-foot minimum



### Clear Zones

The clear zone is the portion of the public sidewalk space provided expressly for accessible pedestrian mobility. It is usually located between the “landscape & utility” zone and the building shy or “café” zone. This space is unobstructed and is constructed of materials and patterns that provide a relatively smooth surface that complies with ADA-accessibility standards.

All sidewalks shall provide a continuous clear zone of not less than—

- Six feet in commercial, mixed-use, or other high-density areas.

# Public Spaces or Privately-Owned Public Spaces

## Adopted Policy Guidance

Several goals are identified in the Public Space Master Plan (PSMP) that talk about outdoor dining in parks and privately owned public spaces.

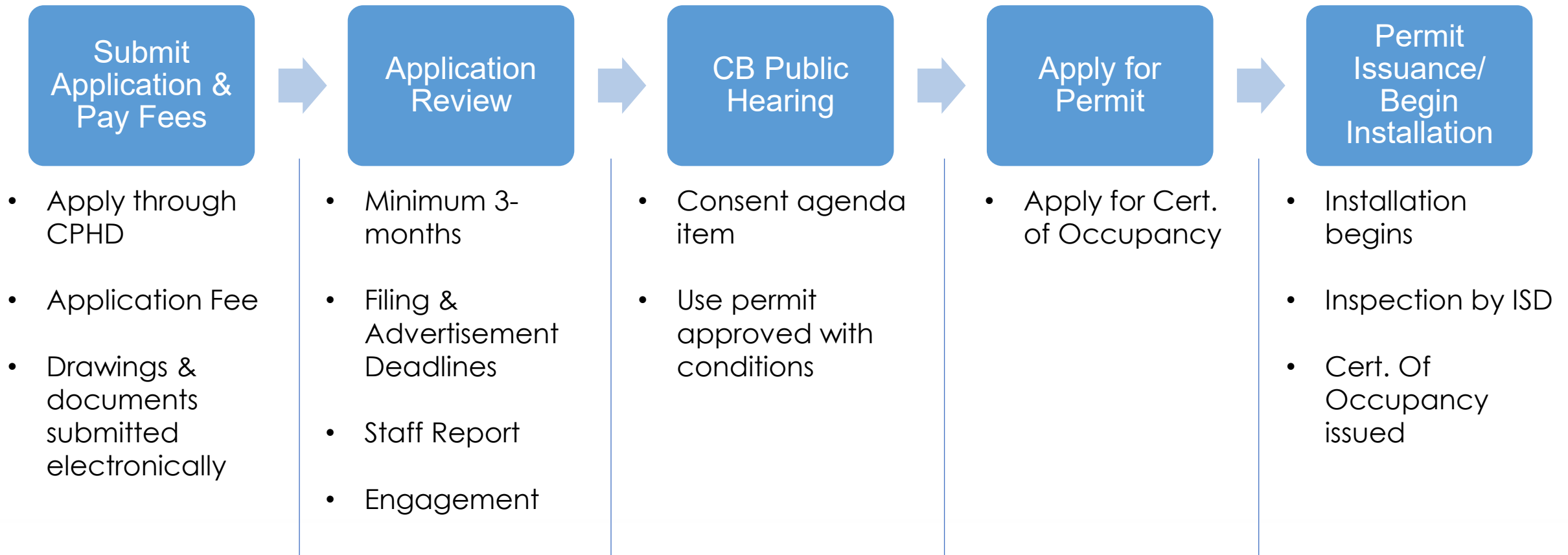
- **Goal 1.5.18** identifies that private businesses are appropriate in POPS in certain contexts, but that they should be identified early in the process, not retrofitted through a later program.
- **Goal 1.10.1** encourages activation of POPS, though mostly as one-off events, rather than permanent outdoor seating.





# Current Permitting & Approval Process for Outdoor Cafes in the Public Space

## Use Permit Approved by County Board (minimum of 3 months)



A photograph of an outdoor dining area, likely a patio or terrace, featuring several wooden tables and chairs. Large blue umbrellas with the 'Cuervo' logo are positioned over the seating. In the background, a rainbow flag flies on a pole. A chalkboard sign in the foreground reads 'Namara's 50% OFF bar drinks M-F 3pm-5pm'. Another sign to the left says 'JACK LIVES HERE We're good Thanks for Mucking'. The scene is set against a clear blue sky and brick buildings.

# Temporary Outdoor Seating Areas (TOSAs)



# TOSA Overview

- TOSAs were established in 2020 to help restaurants and businesses during the COVID-19 pandemic
- Flexible Design & Operational Guidelines established
- Online submission process- no application fee
  - Interdepartmental staff review team
  - Approved by County Manager
- Approx. 145 TOSAs (public & private)
- TOSAs will expire August 15<sup>th</sup>, 2023





# Outdoor Café – TOSA Examples





# Outdoor Café- TOSA Examples





An outdoor dining area with several tables and chairs. Large blue umbrellas are open, and a rainbow flag is visible in the background. A chalkboard sign in the foreground reads "McNamara's Happy Hour 50% OFF bar drinks M-F 3pm-5pm". Another sign says "JACK LIVES HERE We're good Thanks for Mucking".

# Community Engagement



# Phase 1 Engagement- What we heard

## Overview of Community Priorities and Considerations w/ TOSAs

Priorities	Concerns
<b>Support for local businesses</b>	<ul style="list-style-type: none"><li>• Varying demands/needs for different types of restaurants &amp; neighborhoods as well as the need for recovery &amp; resiliency within the restaurant industry</li></ul>
<b>Enjoyment of outdoor dining options that provide for vibrant streetscapes</b>	<ul style="list-style-type: none"><li>• Safety while dining in streets or parking areas</li></ul>
Provide adequate space for <b>safe, accessible pedestrian circulation</b>	<ul style="list-style-type: none"><li>• Congested sidewalks</li><li>• ADA &amp; accessible routes not clear</li></ul>
<b>Support for TOSAs and reduction of parking for expanded outdoor dining options on private property</b>	<ul style="list-style-type: none"><li>• Parking availability if used for circulation or outdoor dining</li><li>• Safety and protection from vehicles</li><li>• Cleanliness, maintenance of spaces</li></ul>
<b>Streamline the process</b>	<ul style="list-style-type: none"><li>• Costly &amp; Lengthy review time</li></ul>

# Feedback Form Analysis

## OPEN-ENDED COMMENTS OVERVIEW

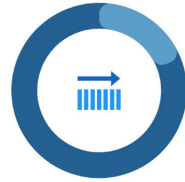
 **992 Comments Received**

### General Comment Sentiment



**69%**

POSITIVE



**19%**

NEUTRAL



**12%**

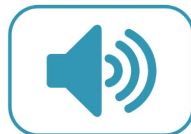
NEGATIVE

### Additional Concerns



**83**

Weather Accommodations



**54**

Noise



**25**

Cleanliness

### Common Themes

**650**

Outdoor Dining

**378**

Parking

**198**

Streets

**115**

COVID/Health

**97**

Safety

**93**

Pedestrian Accessibility

**57**

More Regulations

**55**

Streamline Process



An outdoor dining area with several tables and chairs. There are large blue umbrellas, some with the 'Cuervo' logo. A rainbow flag is visible in the background. A chalkboard sign in the foreground reads: 'McNamara Hangout 50% OFF bar drinks M-F 3pm-5pm'. Another sign says 'JACK LIVES HERE We're good Thanks for Mucking'.

# Framework & Key Work Elements



# Recommended Framework- Key Work Elements

## 1. Encroachment Ordinance & Outdoor Café License (New County Code)

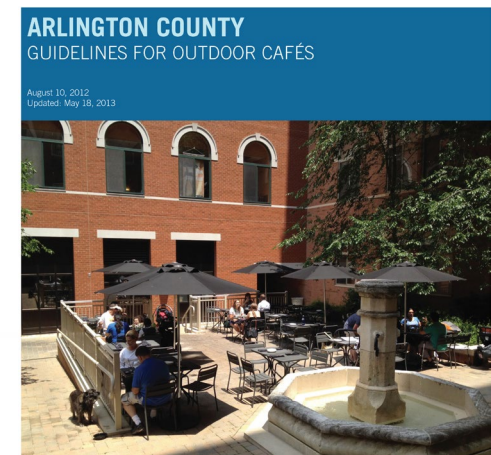
- Administrative process/ requirements for outdoor café license, application and fee

## 2. Zoning Ordinance Amendments

- Permit allowing outdoor seating in public spaces via administrative review and revocation for noncompliance
- Addition of clear and objective design standards regulating placement of seats in public spaces and on private property, permitted through Zoning Administrator administrative review
- Ability for County Board modification of parking requirements for seats located on required private parking spaces

## 3. Update the County's Outdoor Café Guidelines (last updated in 2013) to include the following elements:

- Introduction, Purpose & Goals
- Application & Permit Process
- Guidance for clear sidewalk widths
- Pedestrian Safety, ADA & Accessibility
- Fire & Building Code, Tents & Heaters



# What's NOT in the Draft Framework?

- Changes to the Virginia Statewide Universal Building Code (VASUBC)
- Changes to the Virginia Statewide Fire Prevention Code (VAFPC)
- Changes to the Virginia Alcoholic Beverage Control Authority (VA ABC)
- Guidance for Tents and Heaters



A photograph of an outdoor cafe patio, likely at McNamara's, featuring wooden tables and chairs, large umbrellas (one with the 'Cuervo' logo), and patio heaters. A rainbow flag is visible in the background. The scene is set in a public space with buildings and utility lines in the distance.

# Outdoor Cafes on Public Space



# Encroachment Ordinance/ Outdoor Café License

## County Code Initiative

- County license for private outdoor café use of any public space.
- Provides an Administrative process/requirements for café application, approval and renewal.
- Application Fee, plus an Annual License Fee, based on café square footage.
- Would be in addition to any requirements for cafés under the Zoning Ordinance
- Recommendations to be considered with FOOD Study recommendations to County Board

# Approval Process- Preliminary Recommendations

## Outdoor Cafes in the Public Space

- **Streamlined Administrative Process proposed**
- **Use Permit Background**
  - 2015- 2020- average of five use permits approved per year & six renewals (av.)
  - 3- month process with filing & advertisement deadlines
  - Public hearing- typically on consent agenda
  - Costs- approx. \$2,000 plus additional costs for applicant
- **Administrative Review Process- Benefits**
  - Streamlines the Review Process
  - Reduced Costs, Time and Resources for staff and applicant
  - Improve enforcement/ inspection process
  - County Board use permit approval for outdoor cafes in public access easement areas (POPS) or for requested modification of standards



# Approval Process- Preliminary Recommendations

## Outdoor Cafes in the Public Space

### Zoning Ordinance Amendments

- Allow administrative (by-right) approval
- Require outdoor café license
- Require Building Permit and Certificate of Occupancy (if needed)
- Comply with VA Building & Fire Codes
- Establish objective standards
  - 6' minimum clear sidewalk (unless approved by site plan)
  - Detectable barriers
  - Location in front of restaurant

A photograph of an outdoor cafe patio. The scene is filled with wooden tables and chairs arranged under large blue and red umbrellas. In the background, there are buildings and a rainbow flag flying. A chalkboard sign in the foreground reads "McNamara's Happy Hour 50% OFF bar drinks M-F 3pm-5pm". Another sign to the left says "JACK LIVES HERE We're good Thanks for Mucking".

# Outdoor Cafes on Private Property



# Private Parking (off-street)

Existing TOSAs located within required parking



Rhodeside Grill (2019)



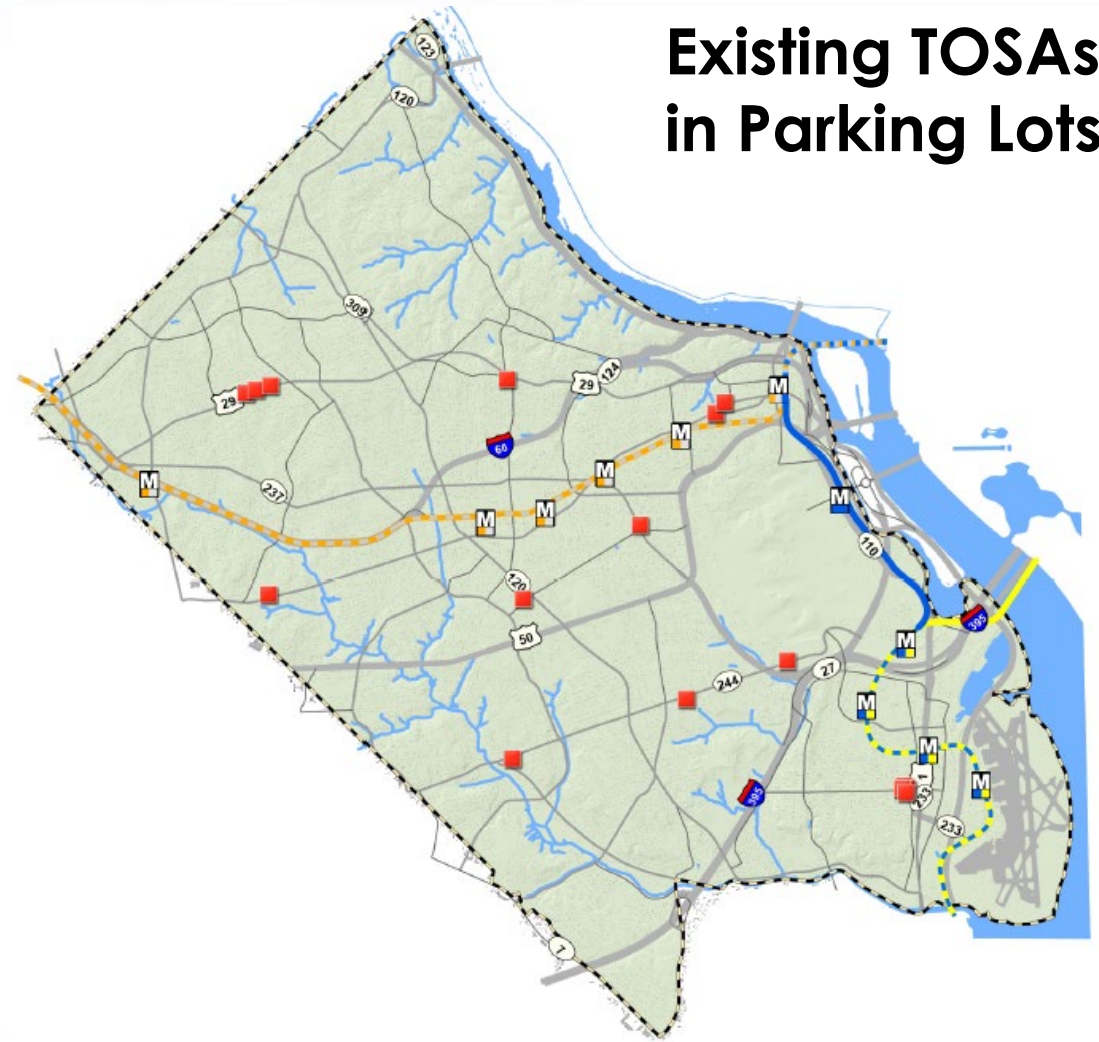
Rhodeside Grill (2022)

# Private Parking (off-street)

## Inventory of TOSAs

- **Approx. 145 TOSAs total**
  - Approx. 10 of Private TOSAs on off-street parking areas
    - TOSA typically occupies 4-5 parking spaces
    - 3 using shared parking lots
      - 23<sup>rd</sup> St. (Restaurant Row) in National Landing

## Existing TOSAs in Parking Lots



■ TOSA



# Outdoor Cafes on Private Property- Preliminary Recommendations

**Zoning Ordinance Amendments to permit outdoor dining on ACZO required parking spaces subject to use permit approval by County Board**

## **Considerations:**

- Amend §12.9.15- *Outdoor Cafes*
- No changes to §14.3- *Parking*
  - Future Study for ACZO regulations for commercial parking as a whole- not just for restaurants
- Applications can be filed following County Board adoption
- Would impact approx. 10-12 TOSAs using parking spaces for outdoor dining
- Include design standards to aid in staff review of future use permits



# Schedule/ Next Steps



# Schedule/ Next Steps

- **Focused Engagement w/ Key Stakeholders** (Now thru July)
- **Zoning Committee Meeting** (May 9 & June 6)
- **Commission Review** (May-June)(TC, PRC, PAC, EDC)
- **County Board- Request to Advertise** (June 10)
  - Zoning Ordinance Amendments
  - Encroachment Ordinance & Fee schedule
- **Planning Commission** (July 3) / **County Board- Action** (July 15)
  - Zoning Ordinance Amendments
  - Encroachment Ordinance & Fee schedule

# Submit your feedback

- Provide your feedback, comments or questions by visiting the project page or by contacting staff



<https://www.arlingtonva.us/Government/Programs/Building/FOOD-Study>

Staff Contact: Brett Wallace, [bhwallace@arlingtonva.us](mailto:bhwallace@arlingtonva.us)



A photograph of an outdoor dining area, likely a patio or terrace, featuring several tables and chairs. Large blue umbrellas are open over the tables, and a rainbow flag is visible in the background. The scene is set against a clear blue sky. The text "Thank you!" is overlaid in white in the center of the image.

Thank you!