



# Future of Outdoor Dining (FOOD) Study

Zoning Committee

June 6, 2023



# Presentation Outline

1. Study Schedule
2. Study Purpose & Goals
3. Staff Analysis & Recommendations
4. Schedule/ 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 :

- 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

# Recommended Framework- Key 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
- Ability for County Board modification (by use permit) 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





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 word 'Cuervo' written on them. In the background, there are buildings, a rainbow flag on a pole, and utility wires. A chalkboard sign in the foreground reads 'McNamee 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'. The entire image has a blue color overlay.

# Zoning Ordinance Regulations For Outdoor Cafes



# 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





# 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**

## Private Property

### §12.9.15 Use Standards:

- 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

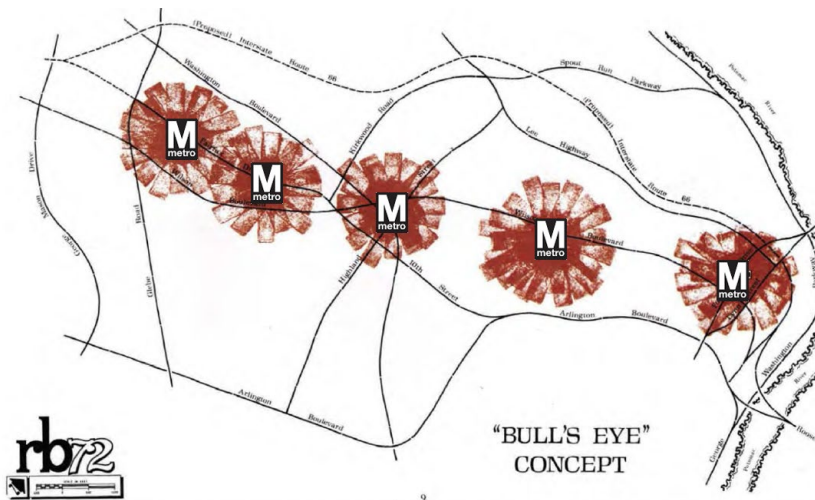
## Public Right-of-way or areas with easement for public use:

### §12.9.15 Use Standards

- Subject to approval of use permit by the County Board

# 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**





A photograph of an outdoor cafe patio. The scene is filled with wooden tables and chairs arranged under large blue and red umbrellas. A rainbow flag flies on a pole in the background. In the foreground, a chalkboard sign 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". The patio is set on a paved area with some potted plants and a blue rope barrier.

# Outdoor Cafes on Public Property



# Staff Analysis & Recommendations

## Existing & Proposed Process

Use permitted	Existing Standards	Proposed Standards
By-right (administrative)	1) Private property, unencumbered by public easements	1) Private property, unencumbered by public easements 2) Public sidewalks within rights-of-way <ul style="list-style-type: none"> <li>• Includes utility/street easements</li> <li>• Excludes travel-way or parking space</li> </ul>
County Board Use Permit	2) Public rights-of-way; public easements on private property, including POPS	3) Privately owned public spaces (POPS)





# Privately Owned Public Spaces (POPS)

**Public Spaces Master Plan adopted (2019) defines privately-owned public space as:**

“a privately developed space that remains under private ownership but has an easement or license that guarantees it is open and accessible to the public.”

- **Typically dedicated/ recorded with deed of public access easement or by site plan condition**
- **POPS Inventory**
  - Approx. 75 POPS throughout the County
  - Approx. 800,000 SF (~18 acres)
- **PSMP Design Guidelines for POPS**

## Design Guidelines

DESIGN GUIDELINES FOR  
ARLINGTON COUNTY'S  
PRIVATELY-OWNED PUBLIC  
SPACES



## PUBLIC SPACES VISION

Arlington County envisions a network of publicly- and privately-owned public spaces that connect the County's established neighborhoods and growing corridors to natural areas, protect valuable natural resources, provide opportunities for structured and casual recreation, and ensure access to the Potomac River, Four Mile Run, and their tributaries.

# Privately-Owned Public Spaces (POPS)

## 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.

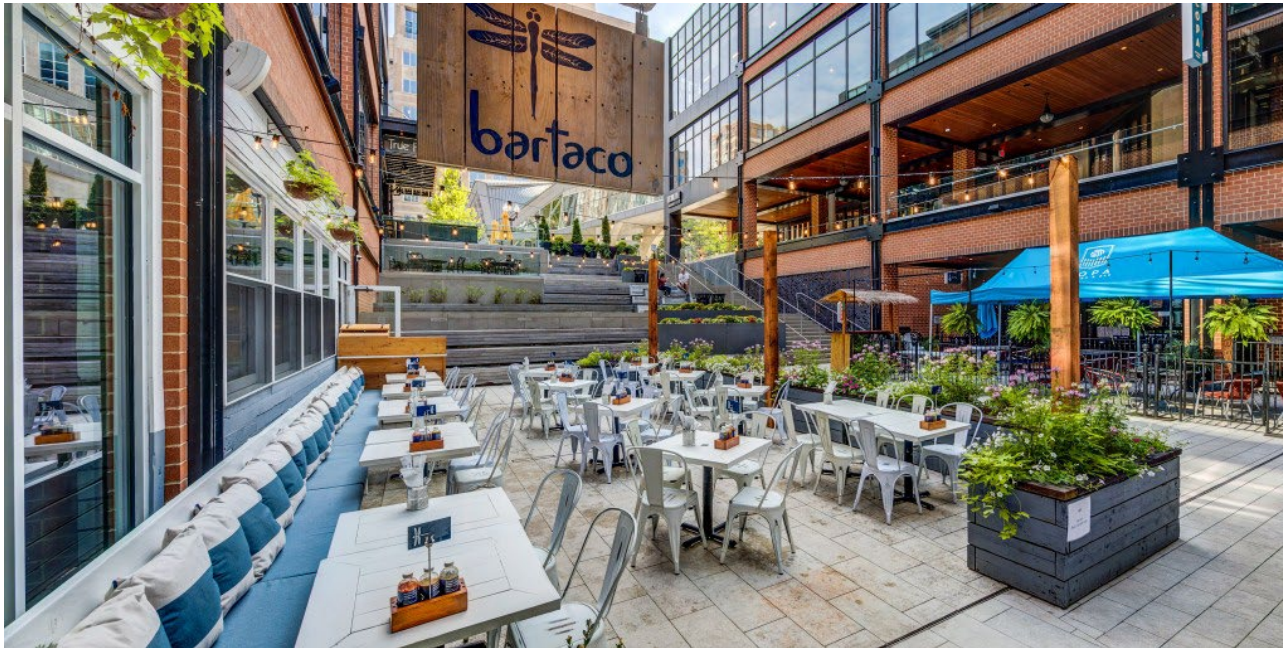
- **Goal 1.5.18** identifies that private businesses are appropriate in POPS in certain contexts, but that they should be identified early in the process, not retrofitted through a later program.
- **Goal 1.10.1** encourages activation of POPS, though mostly as one-off events, rather than permanent outdoor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



# Privately-Owned Public Spaces (POPS)

## Examples of Outdoor Cafes in POPS/ Public Access Easement Areas

- Approved as Use Permit by County Board





# Recommendations for Outdoor Cafes in POPS

**New Definition in Article 18:** “Public space, privately owned.” (line 197 in ZOCO memo)

- Distinguish POPS from other public easement areas (sidewalks)
- Use permit approval from County Board for outdoor cafe (current practice)

**Use permit required of outdoor cafes in POPS** (as proposed)

**When the County Board finds:**

- Not provided as a community benefit or amenity as part of a site plan project
- Cannot obstruct/deter public access to or use of pedestrian pathways
- Cannot obstruct/deter public access to or use of points of interest or other landmark design features
- Café must be a minor, subordinate feature occupying a limited amount of space

**Outdoor cafes located in POPS will need an Outdoor Cafe License** (as proposed)

# Summary of Recommendations- Public Property

## Changes to ACZO use standards for public property (sidewalks)

New Standard *	Carried Forward	Description of Use Standard
✓		Outdoor café license required per forthcoming Ch. 70 of the County Code
✓		6' straight, unobstructed pedestrian clear zone must be maintained
✓		Must be located in front of the restaurant
✓	✓	Sound/AV entertainment subject to hours of operation, but not permitted adjacent to R/RA districts*
	✓	Can't be enclosed
	✓	Café hours can extend beyond restaurant's hours
	✓	Fewer seats than inside the restaurant*
	✓	Exempt from Article 14's parking requirements
--	--	Café furniture is portable and cannot be affixed to the ground**
--	--	Specified hours of operation for side/rear yards next to R/RA districts**

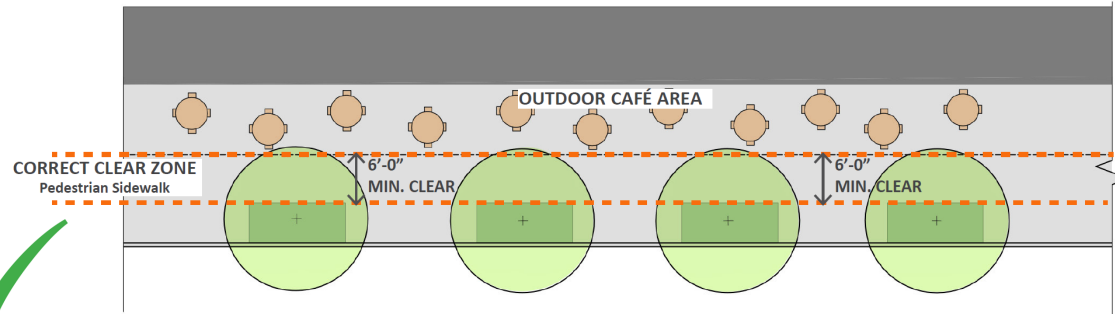
\* Can be modified by the County Board through use permit review/approval

\*\* Addressed in New Chapter 70 Encroachment Ordinance, or N/A

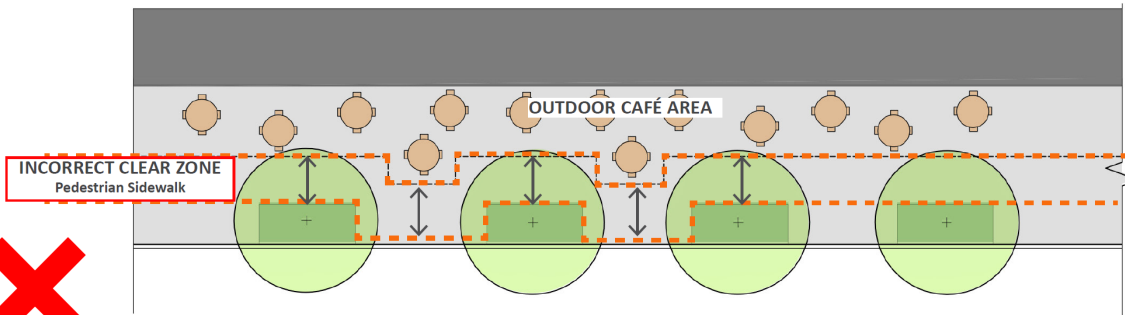
# Zoning Ordinance Amendments

## Clear Sidewalk

- 6' straight, unobstructed pedestrian clear zone must be maintained



The Clear Zone is measured in a consistently straight path from the closest obstructions on both sides. Six feet minimum must be left clear for pedestrians. Site Plan Conditions or Sector Plans may call for a wider clear zone.



The Clear Zone must be a straight path. The Clear Zone cannot zigzag or be measured from varied obstruction points along the pedestrian path.





# Example of TOSA in right-of-way and private yard

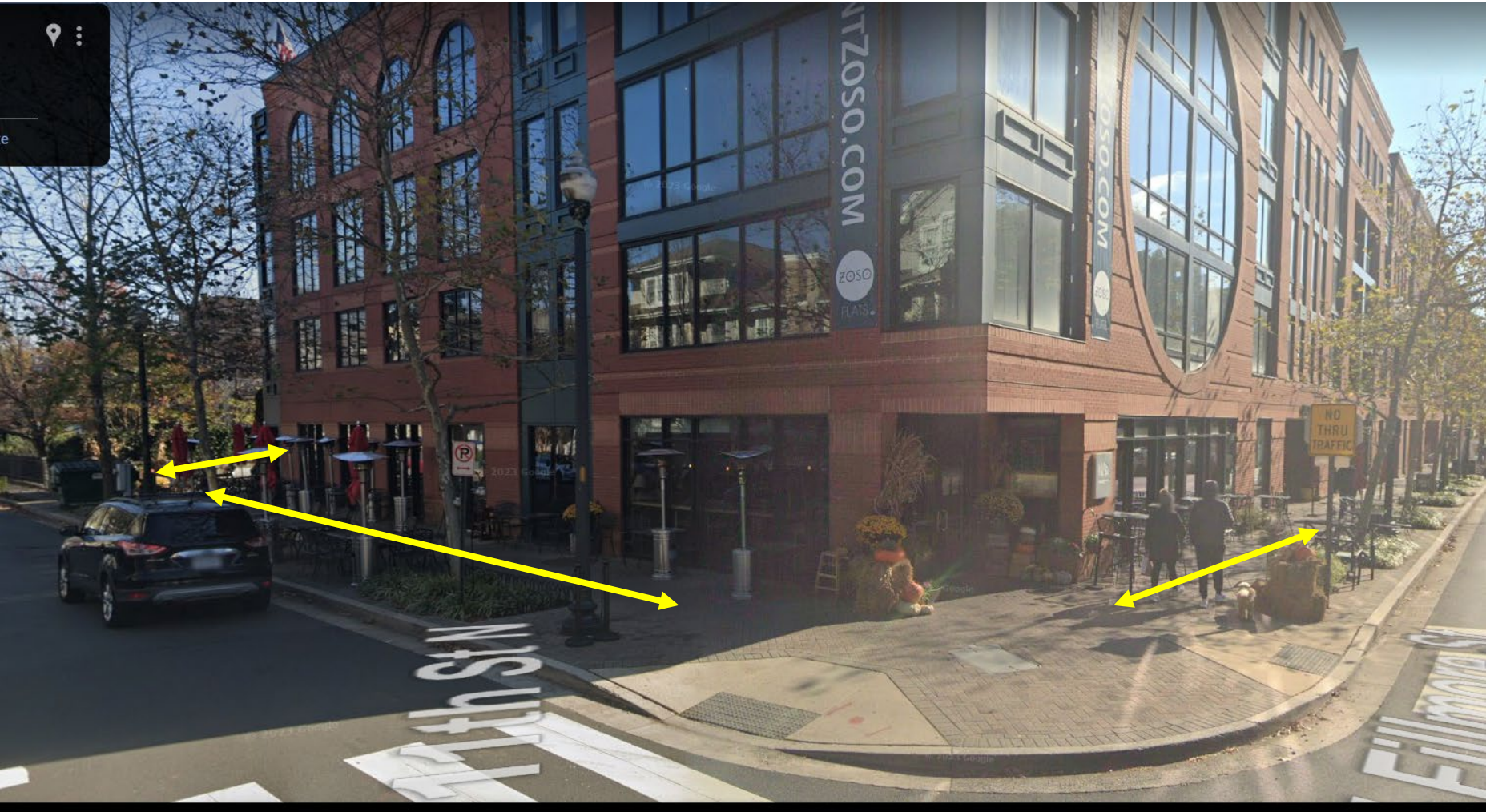
2019





# Example of TOSA in right-of-way and private yard

2022





# Example of TOSA in right-of-way and private yard

## 2022



Public Right-of-Way (sidewalk)



Private Yard



# Example of TOSA in right of way and private yard

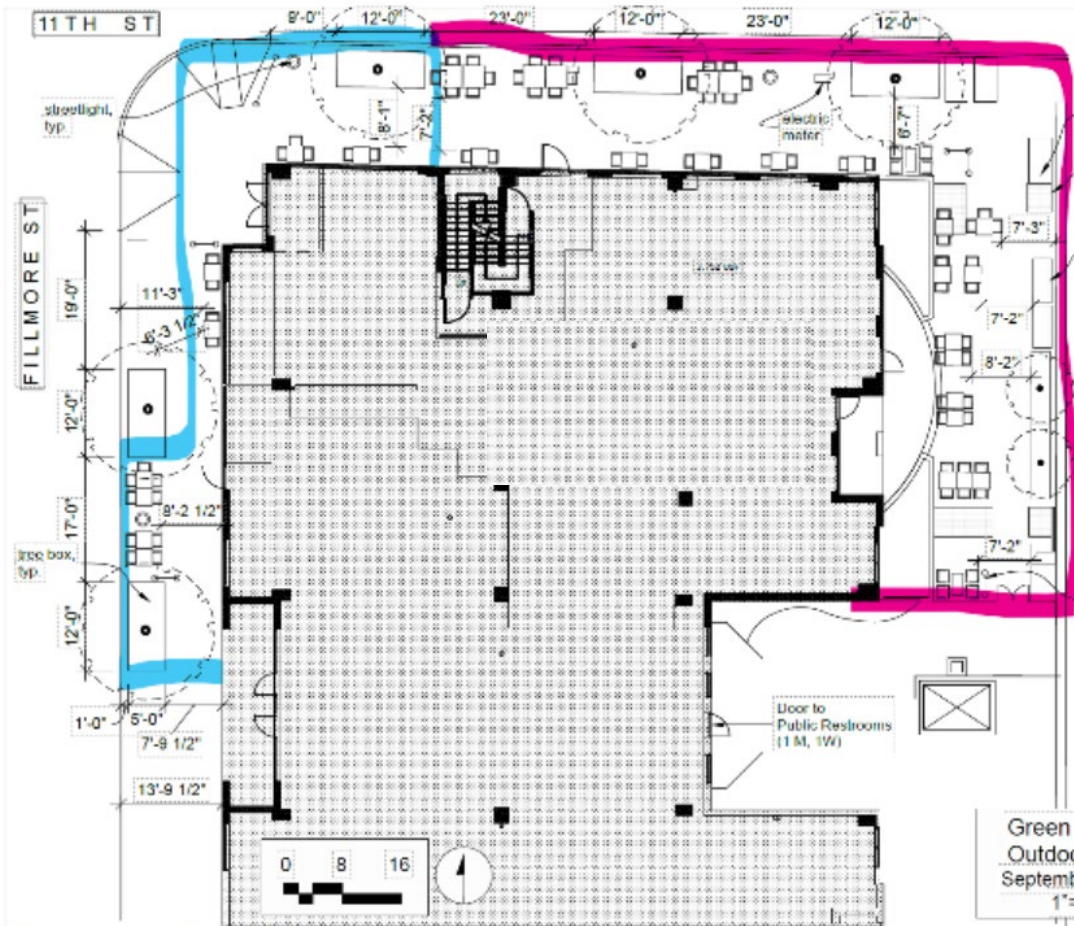


Diagram courtesy of the applicant.  
 Pink Line—TOSA seating  
 Blue Line—Approved outdoor café seating

- 2011- Use Permit approved for outdoor cafe
- 2016- CO approved for 28 seats
- 2021- TOSA approved for 88 seats

Steps Needed for Compliance for TOSA seating:

- Apply for new building permit
- Apply for new CO
- Application Fee for Encroachment

Alternative:

- Reduce seats from 88 to 28= Net Loss of 60 seats
- Application Fee for Encroachment

Outdoor Occupancy	Indoor Occupancy
<b>28</b>	<b>162</b>
<b>CO 1200285</b>	<b>CO 1200193</b>



A photograph of an outdoor cafe patio. The scene is filled with wooden tables and chairs arranged under large blue and red umbrellas. A rainbow flag flies on a pole in the background. In the foreground, a chalkboard sign 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". The patio is set on a paved area with some potted plants and heaters. The overall atmosphere is casual and inviting.

# Outdoor Cafes on Private Property

# Summary of Recommendations- Private Property

## Existing & Proposed Process

	Existing	Proposed
Changes	Café furniture (tables, chairs, bars, server stations) are portable and <u>cannot</u> be affixed to the ground, except for canopies & covers.	Café furniture (tables, chairs, bars, server stations, canopies) <u>can</u> be affixed to the ground
	Sound/AV entertainment subject to hours of operation*	Sound/AV entertainment subject to hours of operation, but not permitted adjacent to R/RA districts*
	N/A	Cafes can be located on parking spaces that are <i>not</i> required to meet Article 14's parking requirements*
No Changes	Exempt from Article 14's parking requirements	Exempt from Article 14's parking requirements
	Open any day of the year	Open any day of the year
	Fewer seats than inside the restaurant*	Fewer seats than inside the restaurant*
	Cannot be enclosed	Cannot be enclosed
	Specified hours of operation for side/rear yards next to R/RA districts	Specified hours of operation for side/rear yards next to R/RA districts
	Café hours can extend beyond restaurant's hours	Café hours can extend beyond restaurant's hours



# Zoning Ordinance Amendments- Private Property

## Examples of outdoor cafes with movable furnishings





# Zoning Ordinance Amendments- Private Property

## Examples of canopies & covers over outdoor cafes

Outdoor café w/ affixed canopy & railing



TOSA w/ affixed canopy & railing





# Summary of Proposed Zoning Amendments

## Proposed Text Changes:

- Editorial changes to **Articles 7 & 8** Commercial & Industrial Districts Use Tables to reflect proposed changes for the approval process for outdoor cafés
- Use permit for outdoor cafes located on ACZO required parking spaces subject to use standards

COMMERCIAL/MIXED USE (C) DISTRICTS ACCESSORY USE TABLE																				
Use Types	RA4.8	R-C	RA-H	RA-H-3.2	C-1-R	C-1	MU-VS *	C-1-O	C-O-1.0	C-O-1.5	C-O-2.5	C-O	C-O-A	C-O ROSSLYN	C-O CRYSTAL CITY	C-2 *	C-TH *	C-3 *	C-R *	Use Standards
Outdoor cafés associated with a food establishment/restaurant on private property or within public sidewalk, street and/or utilities easement	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	§12.9.15
Outdoor cafés associated with a food establishment/restaurant within privately owned public spaces on public right-of-way or easement for public use	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	U	§12.9.15

# Summary of Proposed Zoning Amendments

## Proposed Text Changes:

- **Article 12 Outdoor Cafes** to reflect proposed changes for the approval process:
  1. **Privately-owned Public Spaces (POPS)**
    - Requirement for outdoor café license (new Chapter 70)
    - Meets ACZO use standards
  2. **Public Property (sidewalks)**
    - Requirement for outdoor café license (new Chapter 70)
    - Meets ACZO use standards
    - Clear sidewalk dimension of 6-feet
    - Location in front of restaurant
    - Sound/ entertainment not permitted adjacent to residential\*
  3. **Private Property**
    - Use of AZCO required parking for outdoor café by use permit approval when use standards are met



# Summary of Proposed Zoning Amendments

## Proposed Text Changes:

- Editorial changes to **Article 14-Parking** to resolve regulatory conflicts with allowing outdoor cafes in off-street parking spaces
- Use permit for outdoor cafes located on ACZO required parking spaces subject to use standards



Example of TOSA in a private parking area



# Example of TOSA in private parking spaces

2022

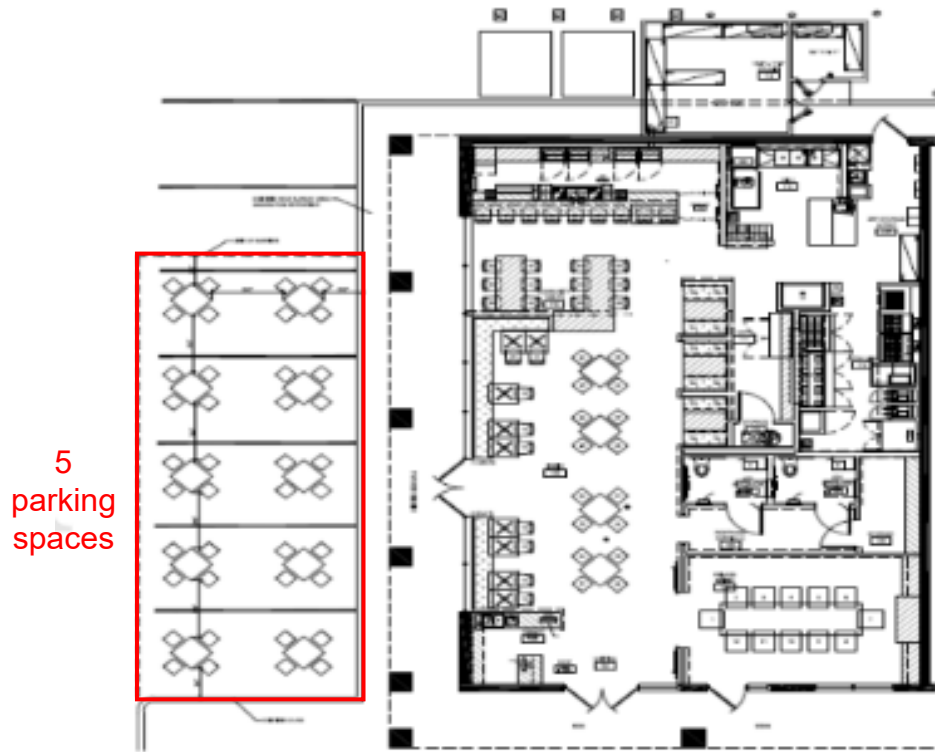




# Example of TOSA in private parking spaces

## Private Property

- No previous outdoor café
- 2019- Indoor CO approved for 86 seats
- 2020- TOSA approved for 40 seats on 5 parking spaces



Example of TOSA in a private parking area

## Two options to consider:

If located on ACZO required parking	If located on excess parking not required by ACZO
Apply for a use permit <ul style="list-style-type: none"> <li>• Meet ACZO Standards</li> </ul>	No Use Permit required <ul style="list-style-type: none"> <li>• Meet ACZO Standards</li> </ul>
Apply for building permit	Apply for building permit
Apply for CO (outdoor)	Apply for CO (outdoor)



# Schedule/ Next Steps



# Schedule/ Next Steps

## Commission Review:

- ✓ 5/9- Zoning Committee
- ✓ 5/25- Transportation Commission (info)
- ✓ 6/5- Pedestrian Advisory Committee
- **6/6- Zoning Committee Meeting**
- **6/7- Chamber of Commerce**
- **6/13- Economic Development Commission**
- **6/13- County Board Request to Advertise**
  - Zoning Ordinance Amendments
  - Encroachment Ordinance & Fee schedule
- **6/20- Park and Recreation Commission**
- **6/29- Transportation Commission (action)**
- **7/3- Planning Commission**
- **7/15- County Board- Action**
  - 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)





Thank you!