



FAIRFAX COUNTY

BOARD OF ZONING APPEALS

PUBLIC HEARING DATE: September 28, 2016
TIME: 9:00 a.m.

V I R G I N I A

September 21, 2016

STAFF REPORT

APPEAL APPLICATION A 2016-MA-002

MASON DISTRICT

APPELLANT: Zaaki Restaurant and Café LLC

LOCATION: 6020 Leesburg Pike

TAX MAP REF: 61-2 ((1)) 7A

ZONING DISTRICTS: C-5, H-C, SC, CRD

SITE AREA: 16,220 square feet

NATURE OF APPEAL: Appeal of a determination that appellant has expanded the use on the property, has constructed a one story addition and deck without site plan or building permit approval, and is operating without a valid Non-Residential Use Permit, in violation of Zoning Ordinance provisions.

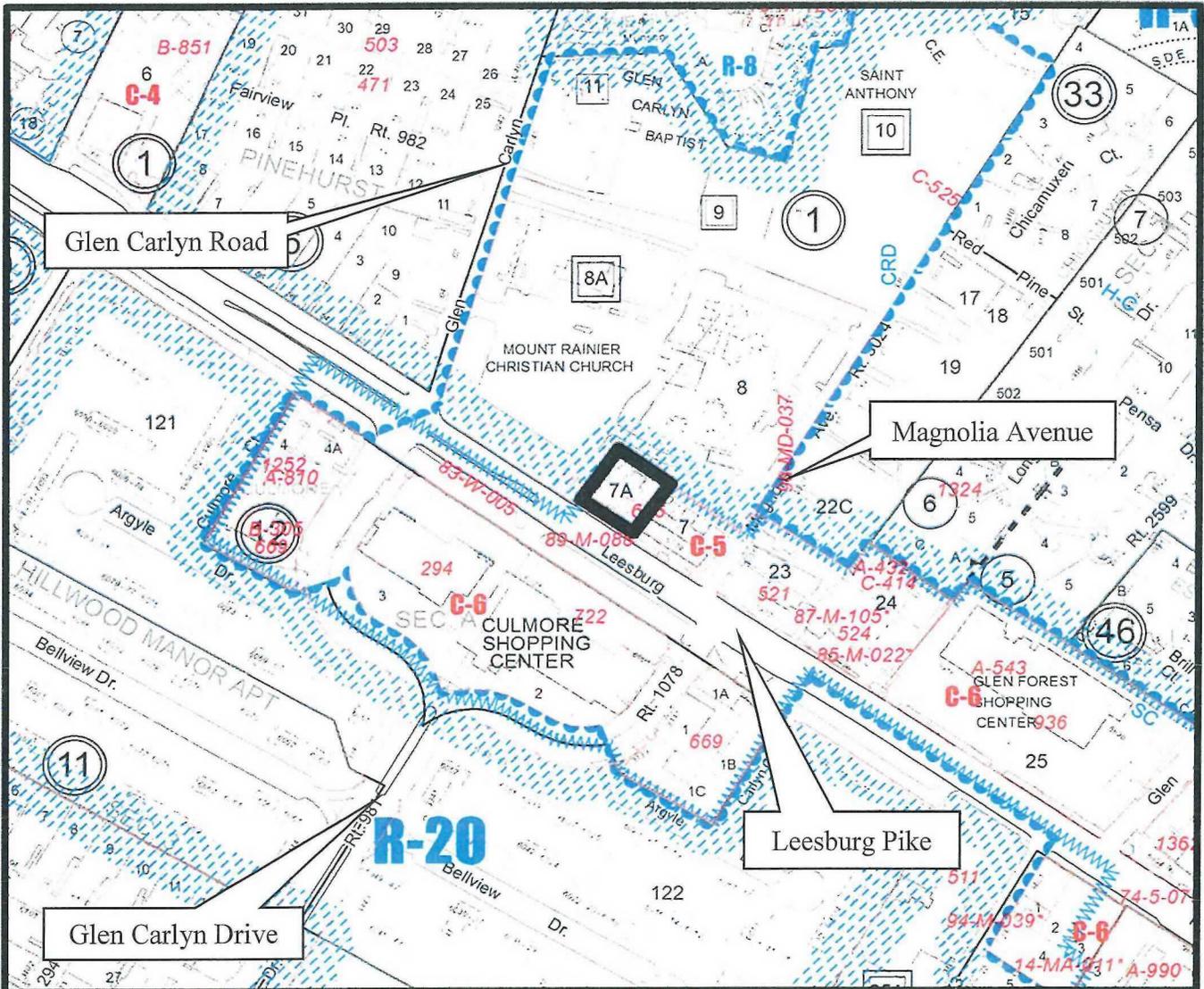
MM

For information, contact the Zoning Administration Division, Department of Planning and Zoning, 12055 Government Center Parkway, Suite 807, Fairfax, Virginia 22035-5505, 703-324-1314.

APPEAL APPLICATION

A 2016-MA-002

ZAAKI RESTAURANT AND CAFÉ LLC, A 2016-MA-002 Appl. under Sect. 18-301 of the Zoning Ordinance. Appeal of a determination that appellant has expanded the use on the property, has constructed a one story addition and deck without site plan or building permit approval, and is operating without a valid Non-Residential Use Permit, in violation of Zoning Ordinance provisions. Located at 6020 Leesburg Pike, Falls Church, 22041 on approx. 16,220 sq. ft. of land zoned C-5, CRD, H-C, SC. Mason District. Tax Map 61-2 ((1)) 0007A.



DESCRIPTION OF APPEAL

- Appellant:** Zaaki Restaurant and Café LLC
- Issue:** Appeal of a determination that appellant has expanded the use on the property, has constructed a one story addition and deck without site plan or building permit approval, and is operating without a valid Non-Residential Use Permit, in violation of Zoning Ordinance provisions.
- Property Description:** Property is located on the north side of Leesburg Pike, approximately 180 feet northwest of its intersection with Magnolia Avenue, and approximately 3200 feet northwest of the center of the intersection of Leesburg Pike and Columbia Pike. The property is zoned C-5 Neighborhood Commercial District, Highway Corridor Overlay District (H-C), Sign Control Overlay District (SC), and Bailey's Crossroads/ Seven Corners Commercial Revitalization District (CRD). The property consists of 16,220 square feet and is developed with a freestanding, single-story commercial building with a basement, additions, and a deck. A copy of the zoning map showing the subject property is provided on the previous page.
- Appellant's Position:** The appellant's application and basis for appeal are set forth in Attachment 1.

ZONING ORDINANCE PROVISIONS

The provisions of the Zoning Ordinance which are germane to this appeal are listed below. The complete text of these provisions is enclosed as Attachment 2.

- Par. 10 of Sect. 4-502, Permitted Uses
- Par. 3C of Sect. 4-503, Special Permit Uses
- Par. 2 of Sect. 17-103, Uses Requiring a Site Plan or Minor Site Plan
- Par. 5 and Par. 16 of Sect. 17-104, Uses Exempt from a Site Plan or Minor Site Plan
- Sect. 18-601, Permit Required for the Erection of Buildings and Structures
- Sect. 18-702, When Required (Residential and Non-Residential Use Permits)
- Sect. 20-300, Definition of ACCESSORY USE and EATING ESTABLISHMENT

BACKGROUND

- Records for the property date back to May 4, 1959, when a Certificate of Occupancy, now referred to as a Non-Residential Use Permit (Non-RUP), was issued for a “carry-out shop.” Several subsequent Non-RUPs were issued for fast food restaurants, with the last Non-RUP for such use issued to Cuscatlan Restaurant on July 8, 1991.
- On March 27, 2001, Non-RUP #A-2001-0642 was issued to Rosita for an eating establishment, which is permitted by-right in the C-5 District.
- The subject property was conveyed to Aaron Samson and Mary Samson on December 28, 2006 by a deed recorded among the Fairfax County land records at Deed Book 19015, Page 1184. A copy of the deed book and page is provided as Attachment 3.
- On January 12, 2007, an aerial photograph was taken of the property. The photograph showed a restaurant building surrounded by a parking lot containing parking spaces in front of and to the sides of the building. The January 12, 2007 photograph and subsequent aerial photographs are included as Attachment 4.
- On June 17, 2010, Building Permit #91960198 was issued for interior alterations to an existing restaurant and a one story, rear addition, measuring seventeen (17) feet by eight (8) feet. As the total area of the addition was only 136 square feet, the addition did not require site plan approval, as Par. 16 of Sect. 17-104 of the Zoning Ordinance exempts certain additions not exceeding 250 square feet in size from site plan approval. The addition passed final inspection on June 6, 2012. Included as part of Attachment 4 is a March 27, 2012 aerial photograph, which shows the addition spanning part of the rear of the existing building.
- On June 8, 2012, Non-RUP #121590172 was issued to Zaaki Restaurant and Cafe LLC for an eating establishment. It is noted that the Non-RUP mistakenly listed the applicable zoning district as the C-6 District, rather than the correct C-5 District. A copy of the Non-RUP is included as Attachment 5.
- On January 28, 2013, Department of Code Compliance (DCC) staff inspected the property and found unpermitted signage as well as outdoor storage greater than 250 square feet, including chairs, lumber, fencing, propane tanks, concrete and tables. The inspection also revealed that two principal uses were being conducted on the property. One principal use was an eating establishment, for which Non-RUP approval had already been obtained. However, DCC staff also found the sale and use of hookah, which is considered a commercial recreation use when it is a principal use on a property. Commercial recreation uses are only permitted in the C-5 District with Board of Zoning Appeals (BZA) approval of a special permit, and must be conducted indoors. There is no special permit approval for the commercial recreation use on the property. Finally, the inspection showed that a tent had been installed on the left side on the building, thereby removing available parking spaces from the property.
- On January 30, 2013, two (2) Notices of Violation (NOVs) were issued for violations of the Zoning Ordinance. One NOV was issued for the unpermitted signage. A second NOV was issued

for the excessive outdoor storage and for the commercial recreation use operating without special permit approval. It is noted that both NOV's erroneously listed the property as being zoned C-6 rather than C-5. Three additional NOV's were simultaneously or subsequently issued for violations of the Virginia Maintenance Code, which is part of the Uniform Statewide Building Code (hereinafter "Building Code"). All of the NOV's were sent to both the appellant and the property owner. However, for the purpose of this staff report, only the NOV's sent to the appellant that pertained to zoning violations are included. Copies of the January 30, 2013 NOV's for zoning violations are included as Attachment 6.

- On February 13, 2013, DCC staff inspected the property and again noted that the tent remained. DCC staff also observed an unpermitted addition on the left side of the existing building, between the existing building and the tent. Although the addition was not found to consist of permanent building materials, the addition was found to be structurally attached to the existing building and was also found to contain electrical fixtures and duct work for heating, ventilation and/or cooling. A photograph of the interior of the unpermitted side addition is included as Attachment 7. At that time, DCC also found a 22 foot by 9 foot, unpermitted rear addition. It is noted that the unpermitted rear addition is located adjacent to the permitted rear addition that was authorized under Building Permit #91960198, and behind the unpermitted side addition. Following the inspection, a NOV was issued for violations of the Building Code, specifically for the lack of building permit approval and inspections for the side and rear additions. An aerial photograph taken on March 10, 2013, which is included as part of Attachment 4, indicates the construction of the unpermitted additions. Also, included as Attachment 8 is an aerial photograph that includes outlines illustrating the locations of the various additions being referenced.
- On October 24, 2013, another NOV was issued for the use of the property as a junk yard, as four inoperable, unregistered vehicles were being stored in the right side yard of the property.
- On January 13, 2014, both of the January 30, 2013 NOV's for zoning violations were rescinded and reissued to list the property as being zoned C-5, which is the correct zoning district. It is noted that the unpermitted signage violations remained in a separate NOV, while the violations for excessive outdoor storage, the commercial recreation use operating without special permit approval and the use of the property as a junk yard were combined into a single NOV. Copies of the January 13, 2014 NOV's are included as Attachment 9.
- On March 2, 2014, an aerial photograph of the property showed that the large tent had been removed; however, a deck remained. The deck covers most of what remained of the left side yard, following construction of the unpermitted side and rear additions. As such, the parking spaces that were made unavailable by the tent were not restored. A copy of the March 2, 2014 aerial photograph is included as part of Attachment 4.
- On May 6, 2014, DCC staff inspected the property and found that the Virginia Maintenance Code violations had been cleared. However, the above-mentioned zoning violations remained.
- On May 29, 2014, Fairfax County Circuit Court Civil Case CL-2014-0001025, Jeffrey L. Blackford vs. Aaron Samson, et al., was non-suited. This case sought declaratory judgement and injunctive relief in relation to the above-mentioned zoning violations. Conversation with DCC

staff revealed that the reason for non-suiting the case was related to the error in the zoning district designation, which resulted in the January 30, 2013 NOV's being rescinded and reissued.

- On June 30, 2015, a minor site plan was submitted for review by the Department of Public Works and Environmental Services (DPWES). However, the submission was withdrawn on July 8, 2015. A minor site plan was resubmitted on September 17, 2015 as Minor Site Plan 23642-MSP-001-2, which sought approval for the unpermitted side and rear additions and the deck, as well as to enclose the majority of the deck into another addition.
- On October 21, 2015, Fairfax County General District Court Criminal Cases GC13221566-00 & GC13221576-00 against the appellant for violations of the Building Code were finalized as nolle prosequi, as DCC decided not to further pursue the cases at that time. It is noted that the unpermitted side and rear additions were part of this case, as DCC had determined that they required building permit and inspections approval. Printouts from the General District Court website that provide a brief history of these cases are included as Attachment 10.
- On November 12, 2015, Minor Site Plan 23642-MSP-001-2 was disapproved. Among the reasons for DPWES disapproving the site plan included whether Zoning Ordinance parking requirements were satisfied, based on ambiguity of the use designation, as well as the need for a geotechnical report. A copy of the letter setting forth the reasons for the disapproval of the minor site plan is included as Attachment 11. Also, while not specifically stated in the letter, DPZ staff noticed that compliance with the minimum required rear yard, which is 20 feet in the C-5 District, may be an issue. Further analysis will be provided below.
- On December 15, 2015, DCC staff inspected the property and issued a NOV for violations of the Zoning Ordinance. The NOV stated that the appellant had expanded the use of the property by constructing a one story side and rear addition (the unpermitted side and rear additions) and deck without site plan or building permit approval, and adding a commercial recreation use, the sale and use of hookah, without the requisite special permit or Non-RUP approvals for such use. A copy of the December 15, 2015 NOV is included as Attachment 12. It is noted that the unpermitted signage and outdoor storage violations mentioned in January 13, 2014 NOV's were not part of the December 15, 2015 NOV, and are therefore not part of this appeal. The unpermitted signage violation remains the subject of one of the January 13, 2014 NOV's. In addition, while there appear to be recurring issues regarding outdoor storage on the property, at the time that the NOV was issued and during subsequent visits to the property, this particular violation had been resolved. Included as part of Attachment 4 is an aerial photograph of the property taken on April 10, 2016, slightly less than four (4) months after the NOV date.
- On January 14, 2016, the appellant filed the subject appeal of the December 15, 2015 NOV.
- On January 15, 2016, Building Permit #140800157 was issued, with the work description reading, "(e)xisting tenant already installed gas fired heater and already installed exhaust fan for a smoking area//work done w/out permit//permit does not include canopy." In discussions with DCC staff, it appears that the appellant obtained this permit in order to legalize improvements that had already been made to the building without permits and inspections. However, the improvements are limited to a gas fired heater and an exhaust fan for a smoking area. There have

not been any inspections related to this Building Permit, and this permit is not pertinent to this appeal.

- On May 12, 2016, Building Permit Application #161330192 was submitted. The permit work description stated, “(e)levating concrete deck into one story addition as per plans,” indicative of the appellant’s request to enclose the deck and create another building addition. Also, on May 12, 2016, a geotechnical report was submitted, in response to DPWES comments associated with its review of the aforementioned minor site plan, for which approval had been denied.
- On June 16, 2016, the Building Plan Review Division failed its review of Building Permit Application #161330192, with one comment being that a current copy of the site plan for the property was required. As the appellant does not yet have site plan approval, the appellant cannot complete the building plan review and building permit issuance process until approval of a site plan is obtained.
- On June 23, 2016, the subject appeal application of the December 15, 2015 NOV was accepted and was scheduled for public hearing on September 28, 2016.
- On June 27, 2016, DPWES denied approval of the geotechnical report. The geotechnical report was resubmitted to DPWES on July 21, 2016.
- On August 4, 2016, staff, the appellant, and DCC staff met at the subject property. During the meeting, the appellant indicated intent to convert the outdoor deck into an enclosed addition, consistent with the work description of Building Permit Application #161330192. Regarding site plan approval, the appellant told staff that a site plan resubmission would quickly follow the approval of the geotechnical report, which was requested by and had been submitted to DPWES. The appellant also told staff that the property is used primarily as an eating establishment, with the offering of sales and use of hookah being a small part of the business. In response to the appellant, staff recommended that the appellant submit a use determination, to include a detailed, written narrative describing how the business currently operates and how it will operate upon completion of the proposed addition. Such a use determination would clarify whether the offering of sales and use of hookah was in fact a principal use, or whether it was an accessory component of the eating establishment. Staff also recommended providing a floor plan including graphic depictions of the various areas of the building and notations indicating the square footage and use(s) of the various areas, in order to make this determination.
- On August 15, 2016, DPWES approved the geotechnical report.
- On August 17, 2016, staff emailed the appellant to ascertain the status of the use determination, which had not yet been submitted, and to request confirmation that the resubmission of the site plan would be forthcoming. It is noted that, at the time of the email, staff was unaware that DPWES had approved the geotechnical report. Nonetheless, staff did not receive a response to this email. As of the date of this staff report, the appellant has not submitted a use determination request. A copy of the email is included as Attachment 13.

- On September 16, 2016, DPWES was not able to accept a resubmission of the minor site plan, due to the submission lacking a structural information sheet and an engineer's stamp and signature.

ZONING ADMINISTRATOR'S POSITION

Expansion of Use

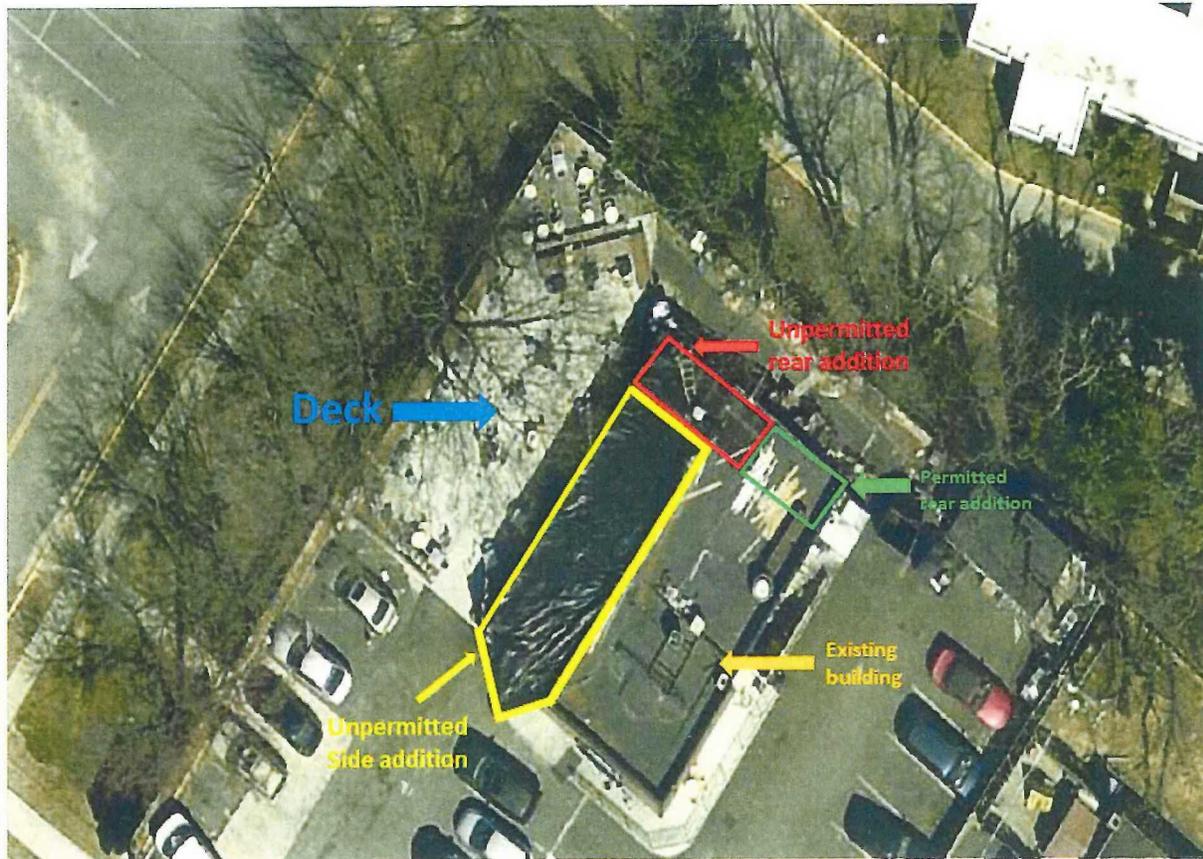
It is the position of the Zoning Administrator that the appellant has expanded the use on the property, has constructed a one story addition and deck without site plan or building permit approval, and is operating without a valid Non-Residential Use Permit, in violation of Zoning Ordinance provisions. As described above, a commercial recreation use was added to the property. On June 8, 2012, Non-RUP #121590172 was issued to Zaaki Restaurant and Cafe LLC for an eating establishment. However, based on subsequent site visits and information available online, DCC staff deemed the sale and use of hookah to be a second principal use on the property, because hookah was available to customers on the property in the unpermitted side addition and on the deck without being required to order food. Based on a longstanding interpretation of the Zoning Administrator, if the sale and use of hookah is conducted to an extent that constitutes a principal use, such use is deemed a commercial recreation use. Commercial recreation uses require special permit approval in the C-5 District, and are only permitted to be located indoors. If special permit approval were obtained, then the hookah use could be validated within the legally established indoor areas of the property; however, there would be no mechanism to validate such use outdoors.

The appellant has provided no documentation to refute DCC's finding that the sale and use of hookah is a principal use. During the August 4, 2016 site visit, staff informed the appellant that the issue of the use of the property must be resolved prior to site plan approval and the issuance of building permits for the additions and before issuance of revised Non-RUPs. Staff advised the appellant to request a use determination to resolve the issue. Staff outlined the conditions under which the sale and use of hookah could be considered accessory to an eating establishment, and advised what information would be required for staff to make such a use determination. To date, no use determination has been requested. The appellant simply states that the use of the property is a restaurant, and not a hookah bar, and therefore the existing Non-RUP is sufficient for the appellant's operations. However, online information about the business clearly recognizes the sale and use of hookah as a significant component of the use on the property. A portion of the webpage devoted to hookah and additional internet information are provided as Attachments 14 and 15.

Site Plan

Between March 27, 2012 and March 10, 2013, the appellant constructed unpermitted side and rear additions, which are referred to as a single, one story addition in the NOV, without site plan approval. Additionally, a March 2, 2014 aerial photograph shows that the appellant has constructed a deck without site plan approval. The deck is located next to the unpermitted side and rear additions, and covers much of what remained of the left side yard.

The permitted rear addition, the unpermitted side and rear additions and the deck are outlined in the picture below:



Pursuant to Par. 2 of Sect. 17-103, the modifications or alterations to property in a C District require site plan approval. However, site plan approval has not been granted for the unpermitted side and rear additions or the deck. Based on DCC inspections and a review of the minor site plan that was disapproved by DPWES, the unpermitted rear addition contains approximately 198 square feet, the unpermitted side addition contains approximately 660 square feet and the deck contains approximately 1,650 square feet. Based on the photos provided in Attachment 4 and Attachment 8, the unpermitted side addition and the deck are used to accommodate a significant amount of additional seating. Par. 16 of Sect. 17-104 of the Zoning Ordinance makes provisions for site plan exemptions; however, uses greater than 250 square feet in gross floor area or disturbed area or uses that reduce required parking do not qualify for a site plan exemption. As the alterations exceed 250 square feet and have removed parking spaces from the property, site plan approval is required.

The appellant has stated that the deck on the property is ornamental and does not constitute an expansion of the use of the property. There are provisions in Par. 5 of Sect. 17-104 that exempt certain ornamental features from requiring site plan approval. However, the features listed include statues, flagpoles, fences, walls, bay windows, chimneys, awnings, canopies, facade improvements, and accessory storage structures for recycling or waste disposal. Due to the size of the deck and the extent to which the deck is used for customer seating, the deck is not ornamental, and does not meet the requirements for an exemption under Sect. 17-104.

To date, while the appellant has submitted site plans in association with the proposed conversion of the deck into an addition, site plan approval has not been obtained for the proposed addition or the existing alterations to the property. A site plan was submitted to DPWES on June 30, 2015, in connection with the appellant's proposal to convert the deck into an addition. This site plan has been denied two times due to outstanding issues remaining. After the site plan was denied for the second time, six (6) months lapsed before a geotechnical report was submitted to address a portion of the site plan review comments. The geotechnical report was approved on August 15, 2016 and an attempt was made to resubmit the site plan; however, on September 16, 2016, DPWES determined that it could not accept the third submission of the site plan, due to the lack of a structural information sheet and the lack of an engineer's stamp and signature. It is again noted that, as parking spaces were eliminated to accommodate the deck, and further that the deck and the unpermitted side and rear additions are substantial additions to the property, a site plan must be approved by DPWES in order to ensure that the existing and proposed development of the property complies with Zoning Ordinance provisions. In its review of Minor Site Plan 23642-MSP-001-2, which was ultimately disapproved, DPWES had particular concerns that the Zoning Ordinance parking requirements are not met. When looking at the disapproved minor site plan, the site plan notes state that 29 parking spaces shall be provided; however, it appears that only 26 spaces are depicted on the site plan. It is unclear whether the total number of table seats proposed is 116 table seats or 146 table seats, which affect the number of parking spaces required for an eating establishment, and the impact on parking associated with the commercial recreation use of the property is also unclear.

Regarding the minimum required yards, when staff reviewed a copy of the disapproved minor site plan, staff noticed that the minimum required rear yard, which is 20 feet in the C-5 District, does not appear to be met. In particular, the site plan shows that the unpermitted rear addition is located 15.8 feet from the rear lot line, in violation of the minimum required rear yard of 20 feet. Also, the site plan shows that part of the deck is only located approximately three (3) feet from the rear lot line, resulting in a 17 foot encroachment into the minimum required rear yard. While the site plan does not designate this portion of the deck for enclosure into an addition, this portion of the deck is not designated for removal. The appellant has the option of seeking special permit and variance approval to allow the unpermitted rear addition and the deck to remain in their current locations. The other option to achieve compliance with the minimum required rear yard is to reduce the unpermitted rear addition and deck as part of the site plan, building permit and inspections process. However, the appellant has not sought special permit approval or resubmitted a site plan that DPWES deems acceptable for review. Therefore, the appellant is in violation of the provisions of Sect. 17-103, and staff does not believe the appellant has been diligently pursuing this approval.

Building Permits

While this issue primarily falls under the purview of the Building Code, Sect. 18-601 of the Zoning Ordinance states that no building or structure for which building permit approval is required under the Building Code shall be erected until the Zoning Administration has granted zoning approval of the building permit application.

In reference to the unpermitted side and rear additions, the appellant states that there has already been court litigation regarding the lack of building permit approval, and that the litigation was favorable to the appellant. There were two (2) General District Court cases regarding Building Code violations on the property, including the lack of permits and inspections for the additions. The final

disposition of those cases was nolle prosequi. Therefore, the outcome of the litigation was not in favor of either party, and DCC staff may pursue future litigation for the additions not having building permits and inspections.

Staff does not dispute that Building Permit #91960198 was issued for interior alterations to the existing restaurant building and a seventeen (17) foot by eight (8) foot rear addition on June 17, 2010, which passed final inspection on June 6, 2012. However, Building Permit #91960198 is not applicable to the unpermitted side and rear additions. The permitted rear addition can clearly be seen on the March 27, 2012 aerial photograph, while the unpermitted side and rear additions can be seen on subsequent aerial photographs beginning on March 10, 2013, and have remained to this day. The unpermitted side and rear additions are also outlined on the aerial photograph included as Attachment 8. It is also noted that the appellant refers to the unpermitted side addition as a “canopy section” or “canopy area,” even though the unpermitted side addition was found by DCC and DPZ staff to be structurally attached to the existing building and found to contain electrical fixtures and HVAC ducts. Following the issuance of Building Permit #91960198, which only pertains to the permitted rear addition, the only other building permit that has been issued is Building Permit #140800157, which the appellant obtained for a gas fired heater and exhaust fan that had already been installed. As mentioned, there have not been any inspections associated with Building Permit #140800157, and this building permit did not include the unpermitted side and rear additions.

It is also noteworthy that approval of a building permit application cannot be granted until a site plan is approved for all existing and proposed structures on the property, along with any required modifications to bring existing structures into compliance with minimum yard requirements. As mentioned, a site plan has not yet been approved. For these reasons, the appellant is in violation of Sect. 18-601.

Non-RUP

Finally, upon clarification of the use or uses on the property, including obtaining special permit approval for the commercial recreation use if it remains a principal use, site plan approval for all existing and any proposed uses and structures on the property, and building permit approval for all existing and proposed structures on the property, a Non-RUP which accurately reflects the uses on the property must be obtained, in accordance with Sect. 18-702 of the Zoning Ordinance.

CONCLUSION

It is the position of the Zoning Administrator that the appellant has expanded the use on the property, has constructed a one story addition and deck without site plan or building permit approval, and is operating without a valid Non-Residential Use Permit, in violation of Zoning Ordinance provisions. The appellant has not provided any information to refute the fact that the sales and use of hookah on the property is a second principal use on the property, which is considered a commercial recreation use requiring special permit approval. Staff encouraged the appellant to submit a written request for a use determination in order for staff to evaluate whether the sales and use of hookah could be deemed accessory to the eating establishment. The appellant has not requested a use determination. The appellant has made modest effort to obtain site plan approval, and has responded to DPWES comments by submitting a geotechnical report, which has been approved, and subsequently

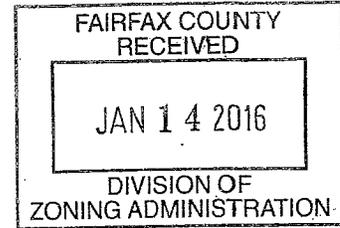
attempting to resubmit, albeit unsuccessfully, a minor site plan to DPWES for review. However, because of Zoning Ordinance minimum required parking and minimum yard requirements, it is unclear whether the most recent site plan submission can be approved for the existing or proposed alterations to the property. Site plan approval is required before the required building permits can be obtained, and clarification of the use is required for the site plan to be accurate with respect to required parking and whether a special permit is required. Finally, a revised Non-RUP will be required upon the completion of these steps to accurately reflect the use, size, and capacity of the property. The appellant has been aware of the violations on the property since early 2013, and has not made expeditious efforts to resolve them. Staff therefore respectfully recommends that the BZA uphold the determination of the Zoning Administrator dated December 15, 2015.

ATTACHMENTS:

1. Appellant's Application and Basis for Appeal
2. Zoning Ordinance Provisions
3. Deed Book 19015, Page 1184
4. Aerial Photographs Ranging from January 10, 2007 to April 10, 2016
5. Non-Residential Use Permit (Non-RUP) #121590172
6. Copies of the January 30, 2013 NOVs for Zoning Violations
7. Photograph of the Interior of the Unpermitted Side Addition
8. Aerial Photograph Including Outlines of the Additions
9. Copies of the January 13, 2014 NOVs for Zoning Violations
10. General District Court Webpage Printouts of History for GC13221566-00 & GC13221576-00
11. November 12, 2015 Letter from DPWES Regarding Disapproval of Minor Site Plan
12. December 15, 2015 NOV
13. August 17, 2016 Staff Email to Appellant
14. Zaaki Hookah Bar Webpage
15. Appellant's Twitter Page



COMMONWEALTH OF VIRGINIA
COUNTY OF FAIRFAX
APPLICATION FOR APPEAL



APPLICATION NO. A 2016-MA-002
(Assigned by Staff)

NAME OF APPELLANT: Zaaki Restaurant and Cafe LLC (Tenant)

NATURE OF THE APPEAL:

Appeal of a Notice of Violation Fairfax County Zoning Ordinance
see justification letter attached

DATE OF ORDER, REQUIREMENT, DECISION, DETERMINATION OR NOTICE OF VIOLATION WHICH IS SUBJECT TO THE APPEAL Date of Issuance December 15, 2015

HOW IS THE APPELLANT AN AGGRIEVED PERSON?:

Appellant is the noticed party and the Tenant located at 6020 Leesburg Pike

IF APPEAL RELATES TO A SPECIFIC PROPERTY, PROVIDE THE FOLLOWING INFORMATION:

POSTAL ADDRESS OF PROPERTY: 6020 Leesburg Pike, Falls Church, VA 22041-2204

TAX MAP DESCRIPTION: 0612 01 0007A

Susan F. Earman, Esquire attorney for Zaaki Restaurant and Cafe LLC
Type or Print Name of Appellant or Agent

Susan Earman
Signature of Appellant or Agent

1364 Beverly Road #201 McLean VA 22101
Address

7038939600

Telephone No: Home Work Cell

Please type or print name, address, and phone number of contact person if different from above:

DO NOT WRITE IN THIS SPACE

Subdivision Name: Munson Hill

Total Area (Acres/Square Feet): 161,200 sq. ft.

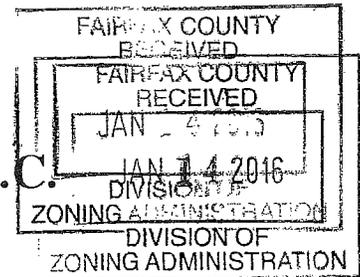
Present Zoning: C-5 H-C, SC, CRD

Supervisor District: Mason

Date application received: 1/14/16 Application Fee Paid: \$ 1000

Date application accepted: 6/23/16

LAW OFFICES OF
Friedlander, Friedlander & Earman, P.C.
(FOUNDED IN 1925)



Mark P. Friedlander, Sr. (1903-1978)
Mark P. Friedlander, Jr. +*
Jerome P. Friedlander, II +*
Susan Friedlander Earman *

1364 Beverly Road, Suite 201
McLean, VA 22101-3645

Phone: 703-893-9600
Fax: 703-893-9650

Email: Friedlanderpc@verizon.net
www.friedlanderlaw.net

Members of the Virginia Bar *
D.C. BAR +

January 14, 2016

Zoning Administrator
12055 Government Center Parkway
Suite 807
Fairfax, Virginia 22035

And

Clerk, Board of Zoning Appeals
12055 Government Center Parkway
Suite 801
Fairfax, Virginia 22035

Re: Zaaki Restaurant and Café, LLC Notice of Violation Appeal

Dear Zoning Administrator and Clerk of the Board of Zoning Appeals:

I, along with my firm of Friedlander, Friedlander, & Earman PC represent Zaaki Restaurant and Café, LLC ("Zaaki"). Zaaki is the tenant of 6020 Leesburg Pike, an aggrieved party, and the appellant of a notice of violation dated December 15, 2015 by W.B. Moncure.

The violation alleges that Zaaki expanded its use on the parcel. Zaaki applied for and received a building permit for a rear addition in 2012. (Permit number 91960198, final on June 6, 2012). The county had full knowledge and approved of any addition under that permit. Furthermore any decking is merely ornamental and is not an expanded use subject to this violation notice. The building department approved other structures on the property inclusive of a canopy section that had been on the parcel before his lease. Zaaki has had previous litigation resulting in favor of the Appellant concerning the canopy area.

Zaaki has all required Non Residential Use Permits. It is an eating establishment and not a Hookah Bar. All seating and parking tabulations were provided. The plans and tabulations filed showed designated eating areas. In the summer of 2014, Zaaki went to great lengths, through its engineers and architect, to supply the zoning department with a site plan, seating plans, and parking tabulations. It filed all necessary documents to comply with the code. Zoning officials

did not object or state that they were missing submissions. As a result of county officials not responding, no further documents were needed and Zaaki has complied.

This may be supplemented if further information is needed.

Sincerely,

Susan F. Earman

A handwritten signature in black ink, appearing to read "Susan F. Earman", written over the typed name.

Cc: Zaaki, Stevens

4-502 Permitted Uses

10. Eating establishments.

4-503 Special Permit Uses

3. Group 5 - Commercial Recreation Uses, limited to:
 - C. Indoor archery ranges, fencing and other similar indoor recreational uses

17-103 Uses Requiring a Site Plan or a Minor Site Plan

Prior to construction and/or establishment, the following uses, including modifications or alterations to existing uses, shall require site plan or minor site plan approval unless exempt under Sect. 104 below:

2. All permitted uses in the C districts.

17-104 Uses Exempt from a Site Plan or a Minor Site Plan

5. Accessory uses and structures such as statues, flagpoles, fences and walls; additions of ornamental features such as bay windows, chimneys, awnings, canopies or other facade improvements; and accessory storage structures for recycling or waste disposal.
16. The following uses provided that the use or activity shall not (a) exceed 250 square feet of gross floor area or disturbed area; (b) exceed 500 square feet of gross floor area or disturbed area for additions and alterations to provide an accessibility improvement; (c) reduce required open space, parking, aisles or driveways and required transitional screening or barriers; and (d) necessitate the installation or relocation of storm sewer, public water or public sewer:
 - A. Antennas and satellite earth stations.
 - B. Additions and alterations to existing uses, which may include changes or additions to features such as decks, vestibules, loading docks, mechanical equipment and storage structures, changes to the site such as walkways, landscaping or paving, or the addition of light poles or lighting fixtures to an existing use that is permitted by right in the zoning district in which located.
 - C. Accessory outdoor storage and display.

18-601 Permit Required for Erection of Buildings and Structures

The erection of all buildings and all structures, as well as additions, deletions and modifications thereto, shall be subject to the provisions of Chapter 61 of The Code, Buildings. No building or structure which is required to have a Building Permit pursuant to Chapter 61 of The Code shall be erected until a Building Permit application has been approved by the Zoning Administrator.

18-702 When Required

For the purpose of this Ordinance, and in the furtherance of the provisions of Chapter 61 of The Code, Buildings, a Residential or Non-Residential Use Permit, whichever is applicable, shall be obtained from the Zoning Administrator before any person shall:

1. Occupy or use, or permit or cause to be occupied or used, any building hereafter erected, with the exception of accessory structures as permitted by Article 10 and additions to existing structures which do not require site plan approval.
2. Change the use, or permit or cause a change in the use, of any existing building.
3. Occupy or use any vacant land except for an agricultural use.
4. Make any change in the use of a nonconforming use.
5. Enlarge any use with respect to the unit of measurement specified in this Ordinance as the basis for determining the amount of required off-street parking space, whether the same is specified in terms of floor area, dwelling units, seats or any other element of size of use.
6. Continue any use after a change in the proprietorship of such use, except a single family dwelling or an agricultural use.

20-300 Definitions

ACCESSORY USE: Accessory uses as permitted by this Ordinance are subject to the provisions of Part 1 of Article 10. An accessory use is a use or building which:

1. Is clearly subordinate to, customarily found in association with, and serves a principal use; and
2. Is subordinate in purpose, area or extent to the principal use served; and
3. Contributes to the comfort, convenience or necessity of the occupants, business enterprise or industrial operation within the principal use served; and
4. Is located on the same lot as the principal use, except any building that is customarily incidental to any agricultural use shall be deemed to be an accessory use, whether or not it is situated on the same lot with the principal building.

EATING ESTABLISHMENT: Any establishment, which provides as a principal use, the sale of food, frozen desserts, or beverages in a state ready for consumption within the establishment, and whose design or principal method of operation includes both of the following characteristics:

1. Customers are provided with an individual menu and are served their food, frozen desserts, or beverages by a restaurant employee at the same table or counter at which said items are consumed.
2. The food, frozen desserts, or beverages are served on nondisposable plates or containers and nondisposable eating utensils are provided. Customers are not expected to clear their table or dispose of their trash.

Notwithstanding the above, a cafeteria where food, frozen desserts, or beverages are: (a) generally consumed within the establishment; and (b) served on nondisposable plates or containers, and nondisposable eating utensils are provided shall be deemed an eating establishment.

An eating establishment may provide a carry-out service, provided that such carry-out service is clearly not the principal business of such establishment. For the purpose of this Ordinance, a fast food restaurant shall not be deemed an eating establishment. In addition, an eating establishment shall not be deemed to include a snack bar or refreshment stand at a public or non-private recreational facility which is operated solely by the agency or group operating the recreational facility for the convenience of the patrons of the facility.

Entertainment which is provided for the enjoyment of the patrons shall be considered accessory to an eating establishment, to include dancing by patrons, provided the space made available for such dancing shall not be more than one-eighth (1/8) of that part of the floor area available for dining. Provisions for dancing made available under this definition shall be subject to the licensing requirements of Chapter 27 of The Code.

CONSIDERATION:
 \$1,400,000.00
 Tax I.D. #061-2-01-0007-A
 Grantee Address:
 P.O. Box 34515
 Bethesda, MD 20827
 Prepared by & Return to:
 Howard M. Bushman, Ltd
 2800 Shillington Rd., #325
 Arlington, VA 22208

#06046

DEED OF CONVEYANCE

THIS DEED, made this 21st day of December, 2006 by and between Jacobo ORTIZ and Yolanda ORTIZ, husband and wife, tenants by the entirety with full common law right of survivorship, parties of the first part, also referred to herein as Grantors, and Aaron SAMSON and Mary SAMSON, husband and wife, tenants by the entirety with full common law right of survivorship, parties of the second part, also referred to herein as Grantees;

WITNESSETH:

That for and in consideration of the sum of TEN AND 00/100'S (\$10.00) Dollars, cash in hand paid and other good and valuable consideration, receipt of which is hereby acknowledged, the parties of the first part do hereby grant and convey, in fee simple, with General Warranty and English Covenants of title, unto the parties of the second part, as his sole and separate equitable estate, all that certain lot or parcel of land together with improvements thereon lying and being situate in the County of Fairfax, State of Virginia, and more particularly described as follows:

Beginning at an original concrete monument in the north right-of-way line of Leesburg Pike, Route No. 7, said monument being the extreme southwest corner of the property of the People's Gas Stations, Inc. and also being a corner to the Catholic Church property; thence departing from the point of beginning and running along the line dividing the property of the People's Gas Stations, Inc. and the Catholic Church property North 39 degrees 22' 00" East 141.94 feet to an original concrete monument which marks the extreme northwest corner of the property of the People's Gas Stations, Inc. and also being a corner to the Catholic Church property; thence departing from this point and running along the line dividing the property of the People's Gas Stations, Inc. and the Catholic Church property South 51 degrees 15' 00" East 121.08 feet to a point; thence departing from this point and running thru the property of the People's Gas Stations, Inc. South 39 degrees 22' 00" West 140.60 feet to a point in the north right-of-way line of Leesburg Pike, Route No. 7; thence departing from this point and running along the north right-of-way line of Leesburg Pike North 51 degrees 53' 00" West 121.10 feet to the point of beginning and containing 17,104 square feet, more or less.

AND BEING the same property conveyed to the Grantors by Deed dated November 6, 2000, recorded January 1, 2002, in Deed Book 12584 at Page 1938, among the land records of Fairfax County, Virginia.

Consideration : \$1,400,000.00
 Clerk's Fee : 33.00
 County Tax : 1,166.67
 State Tax : 3,500.00
 Grantor's Tax : 1,400.00
 \$ 5,049.67

TAX MAP #061-2-01-0007-A

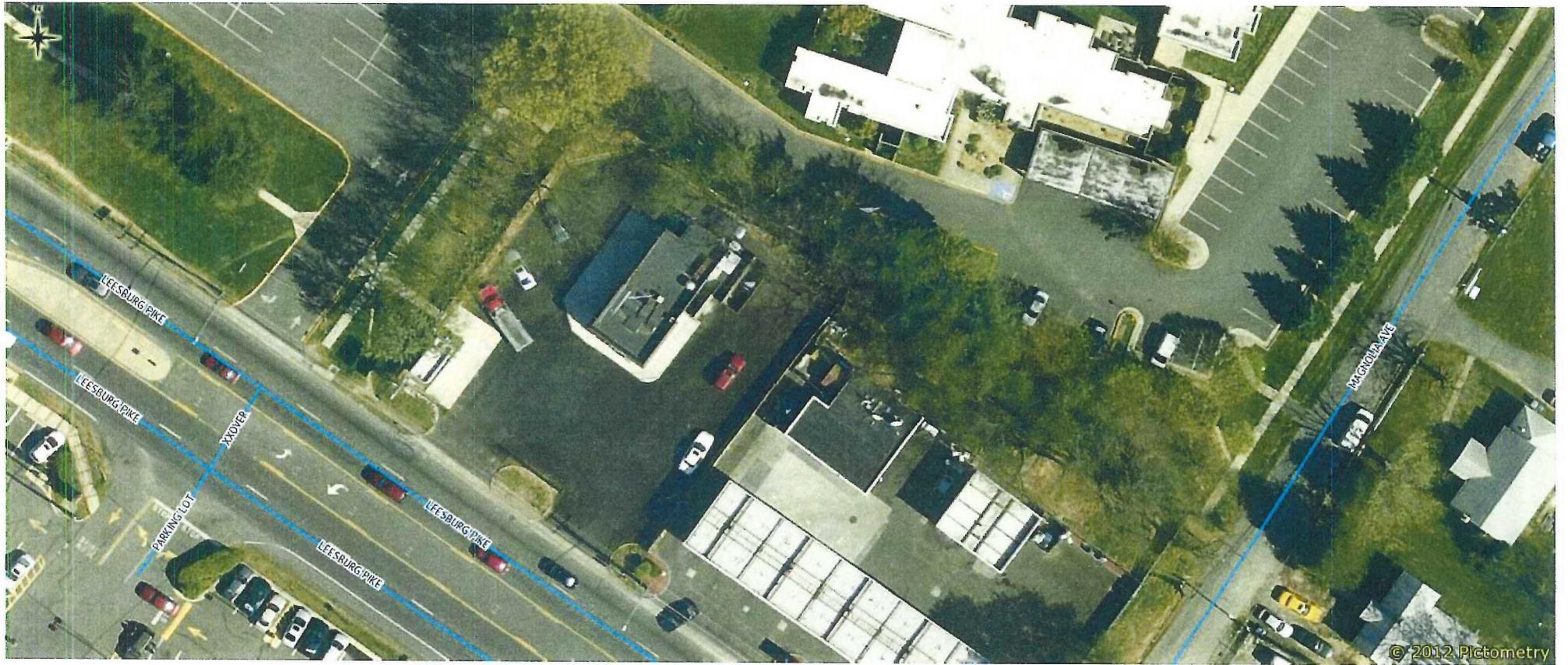
January 12, 2007

Attachment 4



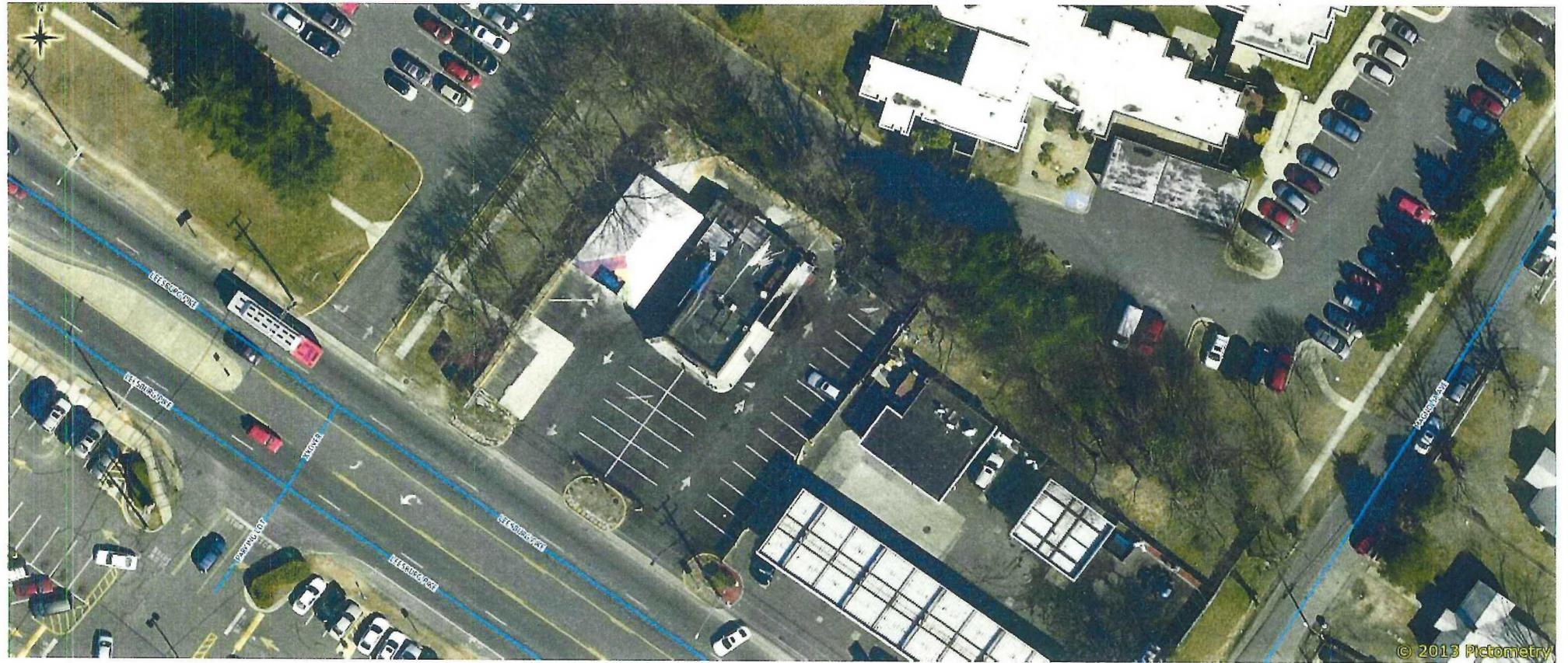
01/12/2007

March 27, 2012



03/27/2012

March 10, 2013



03/10/2013

March 2, 2014



© 2014 Pictometry

03/02/2014

April 10, 2016



04/10/2016

COUNTY OF FAIRFAX
Department of Planning and Zoning
Zoning Administration Division
NON-RESIDENTIAL USE PERMIT

Attachment 5

THIS PERMIT SHALL BE CONSPICUOUSLY POSTED AT ALL TIMES IN THE ESTABLISHMENT

Non-RUP #: 121590172

Issued June 08, 2012

Permission is hereby granted to **ZAAKI RESTAURANT AND CAFE, LLC**
to use **2,100** square feet of floor area, on Bldg: **N/A** floor: **first**; Suite #: **N/A**
of the building located at: **6020 LEESBURG PI, FALLS CHURCH VA 22041-2204** Tax Map No: **0612 01 0007A**
which property is located in the Zoning District: **C-6**
for the following purpose: **EATING ESTABLISHMENT**

Must comply with Zoning Case No. :

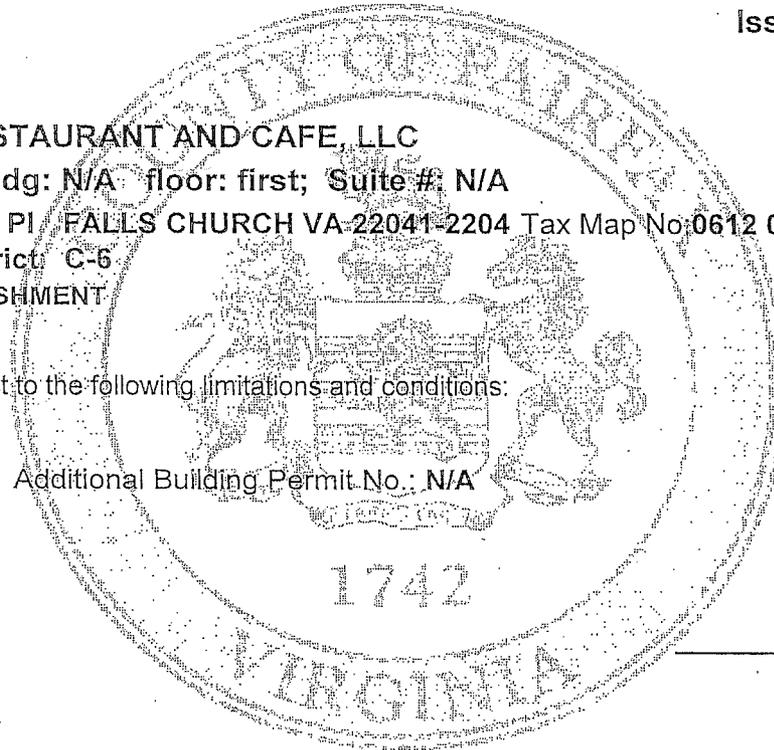
This Non-Residential Use Permit is issued subject to the following limitations and conditions:

Building Permit No.: **N/A**

Additional Building Permit No : **N/A**

<u>Type of</u>	<u>Use</u>
<u>Construction</u>	<u>Group</u>
3B	B

INFORMATION TAKEN FROM 91064B0850



Eileen McNamee
Zoning Administrator

Printed on June 08, 2012

Note: Occupancy approval requires a final inspection by the Fairfax County Fire Marshal's office. Please call 703 246-4849 to schedule the final occupancy inspection, regular inspection fees apply. This permit does not take the place of any license or other permit required by law. Any change in the use, occupancy or proprietorship, or any enlargement or expansion of the premises for which this permit is issued shall require the application and approval of a new Non-Residential Use Permit.



County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County.

copy

NOTICE OF VIOLATION Fairfax County Zoning Ordinance

DATE OF ISSUANCE: January 30, 2013

CERTIFIED MAIL #: 7012 2210 0000 6173 1618

CASE #: 201300057 **SR#:** 90548

SERVE: Zaaki Restaurant and Café LLC
c/o Susan F. Earman, Registered Agent
1364 Beverly Road Suite 201
McLean, VA 22101

LOCATION OF VIOLATION 6020 Leesburg Pike (Zaaki Restaurant and Café, LLC)
Falls Church, VA 22041-2204
Tax Map #: 61-2 ((1)) 7A
Zoning District: C-6, HC, SC, CRD

Dear Registered Agent:

Please forward a copy of this notice to your client. An inspection of the above referenced property on January 28, 2012 revealed the following violations of the Fairfax County Zoning Ordinance.

§ 2-302 (9) Sign Not Permitted

The inspections revealed that you have installed or have allowed the installation of a signs on the above referenced property. These signs advertise Zaaki Restaurant and Café. A sign is defined in Article 20 of the Fairfax County Zoning Ordinance in part, as:

Any writing, letter work or numeral, pictorial presentation, illustration or decoration, emblem, device, symbol or trademark, flag, banner or pennant or any other device, figure or similar character which:

- Is used to announce, direct attention to, identify, advertise or otherwise make anything known; and

Zaaki Restaurant and Café LLC
c/o Susan F. Earman, Registered Agent
January 30, 2013
Page 2

- Is visible from the public right-of-way or from adjoining property.

These signs are not permitted in accordance with Article 12 of the Zoning Ordinance. Therefore the display of this sign is a violation of Par. 9 of Sect. 2-302 which requires that:

No sign shall hereafter be erected, built or displayed and no existing sign shall be moved, remodeled, altered or enlarged unless such sign complies, or will thereafter comply, with the provisions of Article 12.

You are hereby directed to clear this violation within 24 hours after receipt of this Notice. Compliance can be accomplished by:

- Removing, on a permanent basis, the unpermitted signs from the property or
- Applying for and successfully obtaining appropriate sign permits issued by the Zoning Enforcement Branch for approvable signs on the property.

A follow-up inspection will be made at the expiration of the time period outlined in this Notice. Failure to comply with the Notice will result in the initiation of appropriate legal action to gain compliance with the Zoning Ordinance which can result in court ordered sanctions.

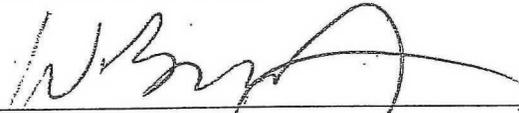
You may have the right to appeal this Notice of Zoning Violation within ten (10) days of the date of this letter in accordance with Sec. 15.2-2311 and Sec. 15.2-2286 of the Code of Virginia. This decision shall be final and unappealable if it is not appealed within such ten (10) days. Should you choose to appeal, the appeal must be filed with the Zoning Administrator and the Board of Zoning Appeals (BZA) in accordance with Part 3 of Article 18 of the Fairfax County Zoning Ordinance. Those provisions require the submission of an application form, a written statement setting forth the decision being appealed, the date of decision, the grounds for the appeal, how the appellant is an aggrieved party and any other information that you may wish to submit and a \$600.00 filing fee. Once an appeal application is accepted, it will be scheduled for public hearing and decision before the BZA. For information regarding an appeal contact the Zoning Administration Division at 12055 Government Center Parkway, Suite 807, Fairfax, Virginia 22035, Phone # 703-324-1314 or obtain information and forms at <http://www.fairfaxcounty.gov/dpz/bza/appeals/>.

Zaaki Restaurant and Café LLC
 c/o Susan F. Earman, Registered Agent
 January 30, 2013
 Page 3

Should you have any questions or need additional information, please do not hesitate to contact me at (703)324-1335 or (703)324-1300.

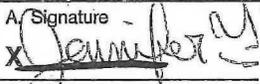
Sincerely,

LEGAL NOTICE ISSUED BY:



 Signature

W. B. Moncure
 Code Compliance Investigator
 (703)324-1335

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY	U.S. Postal Service™ CERTIFIED MAIL™ RECEIPT (Domestic Mail Only; No Insurance Coverage Provided)										
<ul style="list-style-type: none"> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Print your name and address on the reverse so that we can return the card to you. Attach this card to the back of the mailpiece, or on the front if space permits. 	<p>A. Signature </p> <p>B. Received by (Printed Name) Jennifer Frier</p> <p>Delivery address different from address on envelope, enter delivery address</p> <p>Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee)</p>	For delivery information visit our website at www.usps.com										
Zaaki Restaurant and Café LLC c/o Susan F. Earman, Registered Agent 1364 Beverly Road Suite 201 McLean, VA 22101		<table border="1"> <tr> <td>Postage</td> <td>\$</td> <td rowspan="4">Postmark Here</td> </tr> <tr> <td>Certified Fee</td> <td></td> </tr> <tr> <td>Return Receipt Fee (Endorsement Required)</td> <td></td> </tr> <tr> <td>Restricted Delivery Fee (Endorsement Required)</td> <td></td> </tr> </table>		Postage	\$	Postmark Here	Certified Fee		Return Receipt Fee (Endorsement Required)		Restricted Delivery Fee (Endorsement Required)	
Postage	\$	Postmark Here										
Certified Fee												
Return Receipt Fee (Endorsement Required)												
Restricted Delivery Fee (Endorsement Required)												
2. Article Number (Transfer from service label)		Zaaki Restaurant and Café LLC c/o Susan F. Earman, Registered Agent 1364 Beverly Road Suite 201 McLean, VA 22101										
PS Form 3811, February 2004		Domestic Return Receipt										

FR: COMPLETE THIS SECTION

Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. Write your name and address on the reverse of this card to the back of the mailpiece, on the front if space permits.

COMPLETE THIS SECTION ON DELIVERY

A. Signature *Jennifer Friedland* Agent Addressee

B. Received by (Printed Name) *Jennifer Friedland* C. Date of Delivery *2/11/04*

Delivery address different from item 1? Yes No
 If YES, enter delivery address below:

Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

Restaurant and Café LLC
 Alan F. Earman, Registered Agent
 Beverly Road Suite 201
 Fairfax, VA 22101

Tracking Number (Transfer from service label) 7012 2210 0000 6173 1618



FILE COPY

County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County.

NOTICE OF VIOLATION Fairfax County Zoning Ordinance

DATE OF ISSUANCE: January 30, 2013

CERTIFIED MAIL #: 7012 2210 0000 6173 1311

CASE #: 201300057 **SR#:** 90548

SERVE: Zaaki Restaurant and Café LLC
c/o Susan F. Earman, Registered Agent
1364 Beverly Road Suite 201
McLean, VA 22101

LOCATION OF VIOLATION 6020 Leesburg Pike (Zaaki Restaurant and Café, LLC)
Falls Church, VA 22041-2204
Tax Map #: 61-2 ((1)) 7A
Zoning District: C-6, CRD, SC, HC

Dear Registered Agent:

Please forward a copy of this notice to your client. An inspection of the above referenced property on January 28, 2013 revealed the following violations of the Fairfax County Zoning Ordinance. A Non-Residential Use Permit (Non-RUP) # 121590172 was issued to Zaaki Restaurant and Café, LLC as an eating establishment.

§ 2-303 (1) SPECIAL PERMIT

This investigation revealed that the location is also a Hookah Bar which is a commercial recreation use and requires a Special Permit for this use. Review of the County Files reflects no Special Permit approving this use. Therefore this is a violation of the Ordinance which states:

No use of a structure or land that is designated as a special permit use in any zoning district shall hereafter be established, and no existing use shall hereafter be changed to another use that is designated as a special permit use in such district, unless a special permit has been secured from the BZA in accordance with the provisions of Article 8.

Department of Code Compliance
12055 Government Center Parkway, Suite 1016
Fairfax, Virginia 22035-5508
Phone 703-324-1300 FAX 703-324-9346
www.fairfaxcounty.gov/code

Zaaki Restaurant and Café LLC
c/o Susan F. Earman, Registered Agent
January 30, 2013
Page 2

You are hereby directed to clear this violation within thirty (30) days of the date of this Notice. Compliance can be accomplished by the following:

- Vacating the property immediately or
- Immediately complying with the Non-RUP # 121590172 and returning to the approved use of an eating establishment or
- Applying for and successfully obtaining a Special Permit for a commercial recreation use and obtaining all required permits.

An inspection of the above referenced property on January 28, 2012 revealed the following violations of the Fairfax County Zoning Ordinance.

§ 10-102 (24) Outdoor Storage

§ 2-302 (6) Accessory Use must comply with Article 10:

An inspection has determined that you are allowing storage in the rear lot of the address listed above. These items consist of, but are not limited to, the following:

Chairs, lumber, fencing, 14 propane tanks, concrete and tables.

This outdoor storage:

Exceeds 250 square feet in area, and

Is not reflected on an approved site plan.

This outdoor storage is violation of Par. 24 of Sect. 10-102 of the Fairfax County Zoning Ordinance that states in part:

In C or I districts, where permitted by zoning district regulations and Sect. 2-504, outdoor storage, junk, scrap and refuse piles shall be limited to that area designated on an approved site plan, except that 250 square feet of accessory outdoor storage and display in accordance with Sect. 17-104 may be permitted without site plan approval.

Therefore, you are in violation of Par. 6 of Sect. 2-302 of the Zoning Ordinance that states:

No accessory structure or use, as defined in Article 20, shall hereafter be built, moved, remodeled, established, altered or enlarged unless such accessory structure or use complies with the provisions of Part 1 of Article 10.

Zaaki Restaurant and Café LLC
c/o Susan F. Earman, Registered Agent
January 30, 2013.
Page 3

You are hereby directed to clear this violation within thirty (30) days of the date of this Notice. Compliance can be accomplished by the following:

- Removing all outdoor storage from this lot; or
- Reflecting all outdoor storage on an approved site and
- Limiting it to a total area not exceeding 250 square feet.

Should you have any questions or need additional information, please do not hesitate to contact me at (703)324-1335 or (703)324-1300.

Sincerely,

LEGAL NOTICE ISSUED BY:



Signature

W. B. Moncure
Code Compliance Investigator
(703)324-1335

10 00 00 00 00 01

U.S. Postal Service™	
CERTIFIED MAIL™ RECEIPT	
<i>(Domestic Mail Only; No Insurance Coverage Provided)</i>	
For delivery information visit our website at www.usps.com	
OFFICIAL USE	
Postage \$	Postmark Here
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	

Zaaki Restaurant and Café LLC
c/o Susan F. Earman, Registered Agent
1364 Beverly Road Suite 201
McLean, VA 22101

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

COMPLETE THIS SECTION ON DELIVERY

A. Signature
 Jennifer Sued Agent
 Addressee

B. Received by (Printed Name) Jennifer Sued
C. Date of Delivery 2/11/13

Is delivery address different from item 1? Yes
YES, enter delivery address below: No

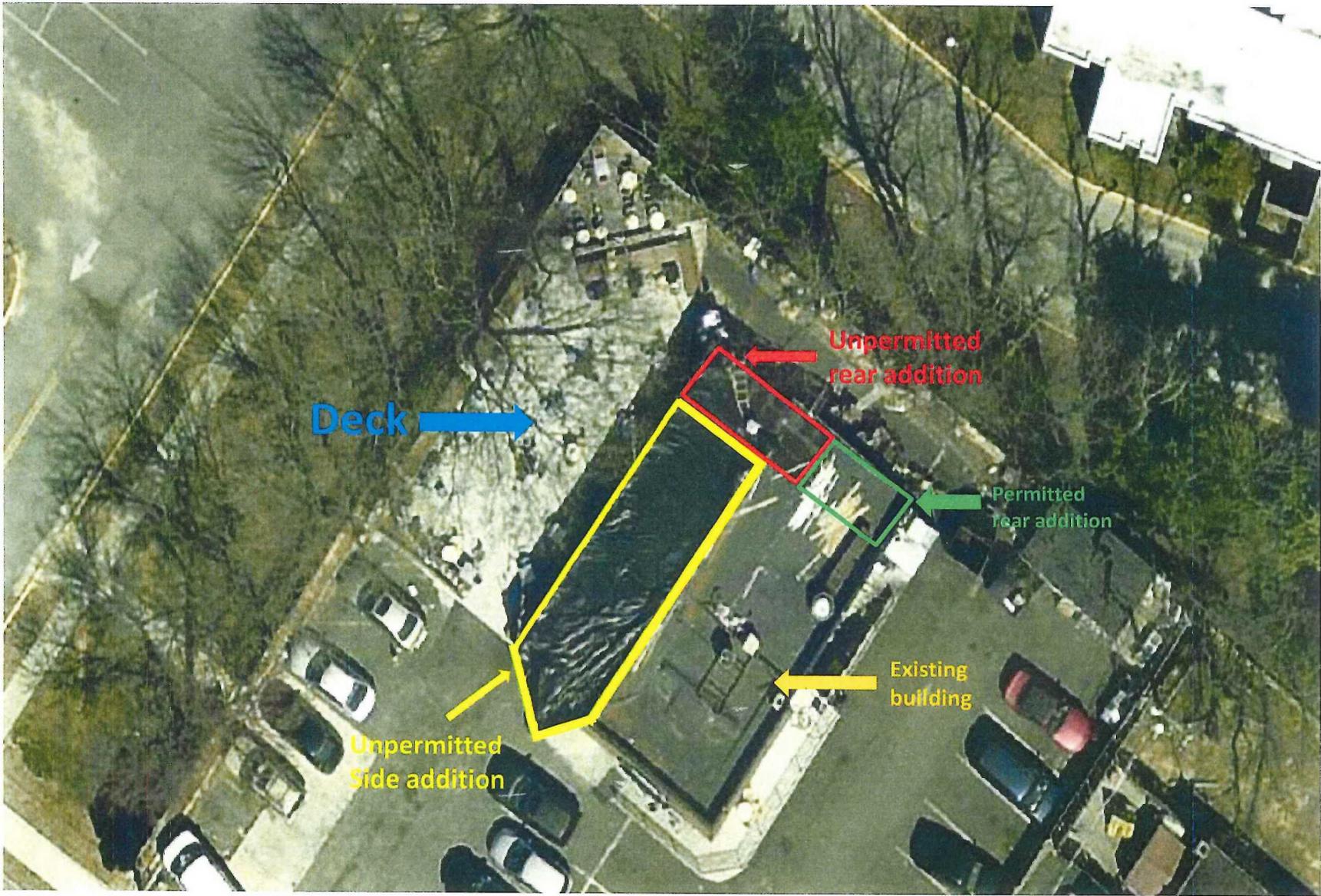
Zaaki Restaurant and Café LLC
c/o Susan F. Earman, Registered Agent
1364 Beverly Road Suite 201
McLean, VA 22101

Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes

2. Article Number 7012 2210 0000 6173 1311
(Transfer from service label)







County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County.

NOTICE OF VIOLATION Fairfax County Zoning Ordinance

DATE OF ISSUANCE: January 13, 2014

METHOD OF SERVICE: CERTIFIED MAIL # 7013 1090 0000 3857 7218

LEGAL NOTICE ISSUED TO: Zaaki Restaurant and Café LLC.
c/o Susan Earman, Registered Agent

ADDRESS: 1364 Beverly Road Suite 201
McLean, VA 22101

LOCATION OF VIOLATION: 6020 Leesburg Pike (Zaaki Restaurant and Café)
Falls Church, Virginia 22041-2204

TAX MAP REF: 61-2 ((1))-7A

ZONING DISTRICT: C- 5, CRD, HC, SC

CASE #: 201300057 **SR #:** 90548

POTENTIAL CIVIL PENALTIES UNDER ZONING ORDINANCE

§ 18-903(1):	Zoning Violation	First Offense	Each Subsequent Offense
	§ 2-302(9)	\$ 200.00	\$ 500.00
	TOTAL:	\$ 200.00	\$ 500.00

Dear Responsible Party:

This letter rescinds the previous notice of violation and reissues the notice for the existing violation. An inspection of the above referenced property on January 28, 2012 revealed the following violations of the Fairfax County Zoning Ordinance.

§ 2-302 (9) Sign Not Permitted

The inspections revealed that you have installed or have allowed the installation of a signs on the above referenced property. These signs advertise Zaaki Restaurant and Café. A sign is defined in Article 20 of the Fairfax County Zoning Ordinance in part, as:

Department of Code Compliance
12055 Government Center Parkway, Suite 1016
Fairfax, Virginia 22035-5508
Phone 703-324-1300 Fax 703-324-9346
www.fairfaxcounty.gov/code

Zaaki Restaurant and Café LLC.
c/o Susan Earman, Registered Agent
January 13, 2014
SR 90548
Page 2

Any writing, letter work or numeral, pictorial presentation, illustration or decoration, emblem, device, symbol or trademark, flag, banner or pennant or any other device, figure or similar character which:

- Is used to announce, direct attention to, identify, advertise or otherwise make anything known; and
- Is visible from the public right -of-way or from adjoining property.

These signs are not permitted in accordance with Article 12 of the Zoning Ordinance. Therefore the display of this sign is a violation of Par. 9 of Sect. 2-302 which requires that:

No sign shall hereafter be erected, built or displayed and no existing sign shall be moved, remodeled, altered or enlarged unless such sign complies, or will thereafter comply, with the provisions of Article 12.

You are hereby directed to clear this violation within 24 hours after receipt of this Notice. Compliance can be accomplished by:

- Removing, on a permanent basis, the unpermitted signs from the property or
- Applying for and successfully obtaining appropriate sign permits issued by the Zoning Enforcement Branch for approvable signs on the property.

A follow-up inspection will be made at the expiration of the time period outlined in this Notice. Failure to comply with the Notice will result in the initiation of appropriate legal action to gain compliance with the Zoning Ordinance which can result in court ordered sanctions.

You may have the right to appeal this Notice of Zoning Violation within ten (10) days of the date of this letter in accordance with Sec. 15.2-2311 and Sec. 15.2-2286 of the Code of Virginia. This decision shall be final and unappealable if it is not appealed within such ten (10) days. Should you choose to appeal, the appeal must be filed with the Zoning Administrator and the Board of Zoning Appeals (BZA) in accordance with Part 3 of Article 18 of the Fairfax County Zoning Ordinance. Those provisions require the submission of an application form, a written statement setting forth the decision being appealed, the date of decision, the grounds for the appeal, how the appellant is an aggrieved party and any other information that you may wish to submit and a \$600.00 filing fee. Once an appeal application is accepted, it will be scheduled for public hearing and decision before the BZA. For information regarding an appeal contact the Zoning Administration Division at 12055 Government Center Parkway, Suite 807, Fairfax, Virginia 22035, Phone # 703-324-1314 or obtain information and

Zaaki Restaurant and Café LLC.
c/o Susan Earman, Registered Agent
January 13, 2014
SR 90548
Page 3

forms at <http://www.fairfaxcounty.gov/dpz/bza/appeals/>.

Should you have any questions or need additional information, please do not hesitate to contact me at (703)324-1335 or (703)324-1300.

Sincerely,

LEGAL NOTICE ISSUED BY:



Signature

W. B. Moncure
Code Compliance Investigator
(703)324-1335



County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County.

NOTICE OF VIOLATION Fairfax County Zoning Ordinance

DATE OF ISSUANCE: January 13, 2014

METHOD OF SERVICE: CERTIFIED MAIL # 7013 1090 0000 3857 7195

LEGAL NOTICE ISSUED TO: Zaaki Restaurant and Café LLC.
c/o Susan F. Earman, Registered Agent

ADDRESS: 1364 Beverly Road Suite 201
McLean, VA 22101

LOCATION OF VIOLATION: 6020 Leesburg Pike (Zaaki Restaurant and Cafe)
Falls Church, Virginia 22041-2204

TAX MAP REF: 61-2 ((1)) 7A

ZONING DISTRICT: C- 5, CRD, HC, SC

CASE #: 201300057 **SR #:** 90548

POTENTIAL CIVIL PENALTIES UNDER ZONING ORDINANCE

§ 18-903(1):	Zoning Violation	First Offense	Each Subsequent Offense
	§ 2-302 (5)	\$ 200.00	\$ 500.00
	§ 2-302 (6)	\$ 200.00	\$ 500.00
	§ 2-303 (1)	\$ 200.00	\$ 500.00
TOTAL:		\$ 600.00	\$ 1500.00

Dear Responsible Party:

This letter rescinds the previous notices of violations and reissues the notices. An inspection of the above referenced property on January 28, 2013 and October 17, 2013 revealed the following violations of the Fairfax County Zoning Ordinance. A Non-Residential Use Permit (Non-RUP) # 121590172 was issued to Zaaki Restaurant and Café, LLC as an eating establishment.

Department of Code Compliance
12055 Government Center Parkway, Suite 1016
Fairfax, Virginia 22035-5508
Phone 703-324-1300 Fax 703-324-9346
www.fairfaxcounty.gov/code

§ 2-303 (1) SPECIAL PERMIT

This investigation revealed that the location is also a Hookah Bar which is a commercial recreation use and requires a Special Permit for this use. Review of the County Files reflects no Special Permit approving this use. Therefore this is a violation of the Ordinance which states:

No use of a structure or land that is designated as a special permit use in any zoning district shall hereafter be established, and no existing use shall hereafter be changed to another use that is designated as a special permit use in such district, unless a special permit has been secured from the BZA in accordance with the provisions of Article 8.

You are hereby directed to clear this violation within thirty (30) days of the date of this Notice. Compliance can be accomplished by the following:

- Vacating the property immediately or
- Immediately complying with the Non-RUP # 121590172 and returning to the approved use of an eating establishment or
- Applying for and successfully obtaining a Special Permit for a commercial recreation use and obtaining all required permits.

An inspection of the above referenced property on January 28, 2013 and October 17, 2013 revealed the following violations of the Fairfax County Zoning Ordinance.

§ 10-102 (24) Outdoor Storage

§ 2-302 (6) Accessory Use must comply with Article 10:

An inspection has determined that you are allowing storage in the rear lot of the address listed above. These items consist of, but are not limited to, the following:

Chairs, lumber, fencing, 14 propane tanks, concrete and tables.

This outdoor storage:

Exceeds 250 square feet in area, and

Is not reflected on an approved site plan.

This outdoor storage is violation of Par. 24 of Sect. 10-102 of the Fairfax County Zoning Ordinance that states in part:

In C or I districts, where permitted by zoning district regulations and Sect. 2-504, outdoor storage, junk, scrap and refuse piles shall be limited

Zaaki Restaurant and Café LLC.
c/o Susan F. Earman, Registered Agent
January 13, 2014
SR 90548
Page 3

to that area designated on an approved site plan, except that 250 square feet of accessory outdoor storage and display in accordance with Sect. 17-104 may be permitted without site plan approval.

Therefore, you are in violation of Par. 6 of Sect. 2-302 of the Zoning Ordinance that states:

No accessory structure or use, as defined in Article 20, shall hereafter be built, moved, remodeled, established, altered or enlarged unless such accessory structure or use complies with the provisions of Part 1 of Article 10.

You are hereby directed to clear this violation within thirty (30) days of the date of this Notice. Compliance can be accomplished by the following:

- Removing all outdoor storage from this lot; or
- Reflecting all outdoor storage on an approved site and
- Limiting it to a total area not exceeding 250 square feet.

An inspection of the above referenced property on October 17, 2013 revealed the following violation(s) of the Fairfax County Zoning Ordinance:

§ 2-302 (5) Junk Yard:

You are storing in the side yard (parking lot) of this property the following materials, debris and junk:

Four inoperable, unregistered vehicles, A White GMC van, a Black Honda, a Black Toyota p/u with trash and debris in the bed, and a Silver Volvo.

The use of the property for the storage of the afore-described items constitutes a junk yard, which is defined in Part 3 of Article 20 of the Fairfax County Zoning Ordinance as:

The use of any space, whether inside or outside a building, for the storage, keeping or abandonment of junk, including scrap metals or other scrap materials, or for the dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts thereof; provided that this definition shall not apply to outside storage as permitted as an accessory use under the provisions of Sect. 10-102. A junk yard shall also be inclusive of an AUTOMOBILE GRAVEYARD as defined herein.

Zaaki Restaurant and Café LLC.
c/o Susan F. Earman, Registered Agent
January 13, 2014
SR 90548
Page 4

A junk yard is not a permitted use in the C-5 District. Therefore, you are in violation of Par. 5 of Sect. 2-302 of the Zoning Ordinance which states:

No use shall be allowed in any district which is not permitted by the regulations for the district.

You are hereby directed to clear this violation within thirty (30) days of the date of this Notice. Compliance can be accomplished by the following procedures:

- Removing all junk, debris and materials that constitutes a junk yard, and
- Ceasing the use of the property as a junk yard.

A follow-up inspection will be made at the expiration of the time period outlined in this Notice. Failure to comply with the notice will result in the initiation of appropriate legal action to gain compliance with the Zoning Ordinance which can result in court ordered sanctions or civil penalties. Civil penalties may be ordered in the amount of \$200.00 for each violation of the Zoning Ordinance cited herein for the first violation and \$500.00 for each violation of the Zoning ordinance cited herein for any subsequent violation, in accordance with Zoning Ordinance §18-903(1).

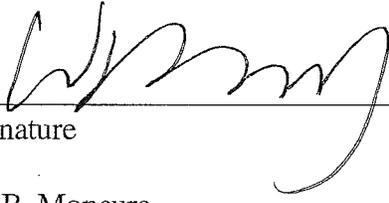
You may have the right to appeal this Notice of Zoning Violation within thirty (30) days of the date of this letter in accordance with Sec. 15.2-2311 of the Code of Virginia. This decision shall be final and unappealable if it is not appealed within such thirty (30) days. Should you choose to appeal, the appeal must be filed with the Zoning Administrator and the Board of Zoning Appeals (BZA) in accordance with Part 3 of Article 18 of the Fairfax County Zoning Ordinance. Those provisions require the submission of an application form, a written statement setting forth the decision being appealed, the date of decision, the grounds for the appeal, how the appellant is an aggrieved party, any other information that you may wish to submit and a \$600.00 filing fee. Once an appeal application is accepted, it will be scheduled for public hearing and decision before the BZA. For information regarding an appeal contact:

Zoning Administration Division
12055 Government Center Parkway, Suite 807
Fairfax, Virginia 22035
Office: (703)324-1314
Information and forms can also be obtained at <http://www.fairfaxcounty.gov/dpz/bza/appeals/>.

Zaaki Restaurant and Café LLC.
c/o Susan F. Earman, Registered Agent
January 13, 2014
SR 90548
Page 5

If you have questions, would like to schedule an appointment to meet with an investigator, or schedule a follow up inspection, please contact me directly at (703)324-1335. For any other questions, contact our main office at (703)324-1300.

LEGAL NOTICE ISSUED BY:



Signature

W. B. Moncure
Code Compliance Investigator
(703)324-1335

Fairfax County General District Court



Traffic/Criminal Case Details

Fairfax County General

- Name Search
- Case Number Search
- Hearing Date Search
- Service/Process Search

- Name Search
- Case Number Search
- Hearing Date Search
- Service/Process Search

Case/Defendant Information

Case Number : GC13221566-00 Filed Date : 10/07/2013 Locality : COMMONWEALTH OF VA
 Name : ZAAKI RESTAURANT AND CAFE LLC Status : Released On Summons Defense Attorney : EARMAN, SUSAN F 893-9600
 Address : FALLS CHURCH, VA 22041 AKA1 : R/A: FRIEDLANDER, MARK AKA2 :
 Gender : Other(Includes Not Applicable, Unknown) Race : DOB :

Charge Information

Charge : BUILDING CODE VIOL, ORDINANCE Case Type : Misdemeanor Class : 0
 Code Section : 36-106 Arrest Date : Complainant : ZAKKAK, G/FXCO CODE COMPLIANCE
 Offense Date : 02/19/2013 Amended Code : Amended Case Type :
 Amended Charge :

Hearing Information

Date	Time	Result	Hearing Type	Courtroom	Plea	Continuance Code
11/12/2013	09:30 AM	Continued	Adjudicatory	2K		Other
04/21/2014	09:30 AM	Continued	Adjudicatory	2K		Defendant
08/25/2014	09:30 AM	Continued	Adjudicatory	2H		Other
11/12/2014	09:30 AM	Continued	Adjudicatory	2K		Commonwealth
02/19/2015	09:30 AM	Continued	Adjudicatory	2K		Other
07/07/2015	09:30 AM	Continued	Re-Open	2K		Other
07/20/2015	09:30 AM	Continued	Re-Hearing	2J		Other
10/21/2015	09:30 AM	Finalized	Adjudicatory	2K		

Service/Process

Disposition Information

Final Disposition : Nolle Prosequi
 Sentence Time : 00Months 00Days 00Hours Sentence Suspended Time : 00Months 00Days 00Hours
 Probation Type : Probation Time : 00Years 00Months 00Days Probation Starts :
 Operator License Suspension Time : 00Years 00Months 00Days Restriction Effective Date :
 Operator License Restriction Codes :
 Fine : Costs : Fine/Costs Due :
 Fine/Costs Paid : Fine/Costs Paid Date : VASAP :

[Back to Search Results](#)

Fairfax County General District Court



Traffic/Criminal Case Details

Fairfax County General

- Name Search
- Case Number Search
- Hearing Date Search
- Service/Process Search

Case/Defendant Information

Case Number : GC13221576-00 Filed Date : 10/07/2013 Locality : COMMONWEALTH OF VA
 Name : ZAAKI RESTAURANT AND CAFE LLC Status : Released On Summons Defense Attorney : EARMAN, SUSAN F 893-9600
 Address : FALLS CHURCH, VA 22041 AKA1 : R/A: FRIEDLANDER, MARK AKA2 :
 Gender : Other(Includes Not Applicable, Unknown) Race : DOB :

- Name Search
- Case Number Search
- Hearing Date Search
- Service/Process Search

Charge Information

Charge : BUILDING CODE VIOL, ORDINANCE Case Type : Misdemeanor Class : O
 Case Section : 36-106 Arrest Date : Complainant : ZAKKAK, G/FXCO CODE COMPLIANCE
 Offense Date : 02/19/2013 Amended Code : Amended Case Type :
 Amended Charge :

Hearing Information

Date	Time	Result	Hearing Type	Courtroom	Plea	Continuance Code
11/12/2013	09:30 AM	Continued	Adjudicatory	2K		Other
04/21/2014	09:30 AM	Continued	Adjudicatory	2K		Defendant
08/25/2014	09:30 AM	Continued	Adjudicatory	2H		Other
11/12/2014	09:30 AM	Continued	Adjudicatory	2K		Commonwealth
02/19/2015	09:30 AM	Continued	Adjudicatory	2K		Other
07/07/2015	09:30 AM	Continued	Re-Open	2K		Other
07/20/2015	09:30 AM	Continued	Re-Hearing	2J		Other
10/21/2015	09:30 AM	Finalized	Adjudicatory	2K		

Service/Process

Disposition Information

Final Disposition : Nolle Prosequi
 Sentence Time : 00Months 00Days 00Hours Sentence Suspended Time : 00Months 00Days 00Hours
 Probation Type : Probation Time : 00Years 00Months 00Days Probation Starts :
 Operator License Suspension Time : 00Years 00Months 00Days Restriction Effective Date :
 Operator License Restriction Codes :
 Fine : Costs : Fine/Costs Due :
 Fine/Costs Paid : Fine/Costs Paid Date : VASAP :

[Back to Search Results](#)



**FAIRFAX COUNTY, VIRGINIA, DPWES
SITE DEVELOPMENT AND INSPECTIONS DIVISION
OFFICE OF LAND DEVELOPMENT SERVICES**

COMMENTS BY: Mark Lucas (703) 324 1720

PLAN NUMBER :23642-MSP-001-2
PLAN NAME : Zaaki Restaurant
DISTRICT : Mason
TAX MAP NUMBER : 061-2-001-7A
DATE : November 12, 2015

The following comments need addressed on the next submission:

Sheet 1

1. Include descriptions of the specific site improvements including the purpose of use and purpose of the elevated platform and closed in lower level and any additional seats or support staff that these improvements will generate. Address erosion and sediment control, identify the amount and limits of disturbance
2. Include Tax map, parcel number, and Magisterial District of the site.-(17-105-2)
3. Name of applicant/firm and address; relationship of applicant to property owner (17-105-2)
4. Sufficient information to verify compliance with applicable provisions of the Zoning Ordinance and Public Facilities Manual, such as the zoning district of the property, the existing and proposed floor area ratio of the proposed development.
5. A map identifying classification of soil types at a scale of not less than one inch equals five hundred feet (1" = 500'), based upon the County of Fairfax Soils Identification Maps or, if not mapped, based upon soils identified by a professional authorized by the State to provide such information (17-106)- Note, it appears that there are soil Type IVB in the area of the proposed building foundations, per (PFM-4-0205.3A) for a IVB soils, A limited geotechnical investigation is required in the form of a letter report to be incorporated into the first submission of the site, subdivision, grading or construction plans. The information placed on the plans will consist of soil strength tests e.g., SPT boring logs and construction notes addressing identified problems and other requirements for construction.
6. Show the limits of construction for the Minor Site plan building addition including contraction entrance, access, stockpiles.
7. Include parking tabulations (17-104.8) the forms can be found on the following link-www.fairfaxcounty.gov/dpwes/forms/parkingtabform.pdf, and instructions-www.fairfaxcounty.gov/dpwes/forms/parking-tabulation-instructions.pdf
8. The amount of parking spaces shown on the plan is not sufficient to meet the proposed parking requirements. Show the amount of existing and proposed parking spaces, include a re-striping plan for the additional parking spaces and handicap parking and unloading areas.

9. Determine the amount of handicap parking required and show the size and locations of the handicap parking and unloading areas including signage and marking.-(ADA)
10. North arrow is missing.
11. Replace sheet index with index specific to these plans.
12. Installation of adequate temporary and permanent erosion and sedimentation control measures in accordance with the provisions of Chapter 104 of The Code and the Public Facilities Manual 17-201.9.
13. Include the Minor Site Plan approval block- (Minor Site Plan Application)



County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County.

NOTICE OF VIOLATION Fairfax County Zoning Ordinance

DATE OF ISSUANCE: December 15, 2015

METHOD OF SERVICE: CERTIFIED MAIL # 7015 1520 0003 1824 1505

LEGAL NOTICE ISSUED TO: Zaaki Restaurant and Café LLC (Tenant)
c/o Susan F. Earman, Registered Agent

ADDRESS: 1364 Beverly Road Suite 201
McLean, VA 22101

LOCATION OF VIOLATION: 6020 Leesburg Pike (Zaaki Restaurant)
Falls Church, VA 22041-2204

TAX MAP REF: 0612 01 0007A

ZONING DISTRICT: C- 5, HC, SC, CRD

CASE #: 201300057 **SR #:** 90548

ISSUING INVESTIGATOR: W. B. Mcncure, (703)324-1335

POTENTIAL CIVIL PENALTIES UNDER ZONING ORDINANCE

§ 18-903(1):	Zoning Violation	First Offense	Each Subsequent Offense
	§17-103	\$ 200.00	\$ 500.00
	§18-701	\$ 200.00	\$ 500.00
	TOTAL:	\$ 400.00	\$ 1000.00

Dear Responsible Party:

An inspection of the above referenced property on December 15, 2015 revealed the following violation(s) of the Fairfax County Zoning Ordinance:

§ 17-103 (2) Site Plan
§ 18-601 Building Permit:

Department of Code Compliance
12055 Government Center Parkway, Suite 1016
Fairfax, Virginia 22035-5508
Phone 703-324-1300 Fax 703-653-9459 TTY 711
www.fairfaxcounty.gov/code

Zaaki Restaurant and Café LLC (Tenant)
c/o Susan F. Earman, Registered Agent
December 15, 2015
SR 90548
Page 2

An inspection has determined that Zaaki Restaurant has expanded its use on this property. A review of Fairfax County records revealed that no site plan has been approved to permit this use. This information is verified by letter of deficiency dated November 12, 2015 issued by Site Development and Inspections Division Office of Land Development Services of Fairfax County DPWES. The establishment or expansion of this use on this property is in violation of Par. 2 of Sect. 17-103 of the Zoning Ordinance which states:

Prior to construction and/or establishment, the following uses, including modifications or alterations to existing uses, shall require site plan or minor site plan approval unless exempt under Sect. 104 below:

2. All permitted uses in the C districts.

Furthermore, a review of Fairfax County Land Development records indicates that a Building Permit was never obtained for the construction/erection of one story addition and deck in the side and rear yard as required in Sect. 18-601 of the Zoning Ordinance. Therefore, the construction/erection of one story addition and deck in the side and rear yard is in violation of Sect. 18-601 of the Zoning Ordinance which specifies:

The erection of all buildings and all structures, as well as additions, deletions and modifications thereto, shall be subject to the provisions of Chapter 61 of The Code, Buildings. No building or structure which is required to have a Building Permit pursuant to Chapter 61 of The Code shall be erected until a Building Permit Application has been approved by the Zoning Administrator.

Finally, a Building Permit cannot be issued for the one story addition and deck in the side and rear yard until it is shown on an approved site plan as required by Par. 1 of Sect. 18-603. This provision states that:

No Building Permit shall be issued for the erection of any building or structure on a lot or addition or modification to a building or structure that is in violation of any of the provisions of Chapter 101, Chapter 116 or Chapter 118 of The Code, this Ordinance, all other applicable laws and ordinances, any proffered conditions, or any development conditions of any approved rezoning, special permit, special exception or variance. Appeals of decisions made pursuant to Chapter 118 of The Code which are appealable shall be processed in accordance with Article 8 of Chapter 118.

Zaaki Restaurant and Café LLC (Tenant)
c/o Susan F. Earman, Registered Agent
December 15, 2015
SR 90548
Page 3

You are hereby directed to clear these violations within thirty (30) days after of the date of this notice. Compliance must be accomplished by:

- Removing the one story addition and deck in the side and rear yard from the property; or
- Submitting to and obtaining approval from the Department of Public Works and Environmental Services (DPWES) for a new site plan to reflect the use of the one story addition and deck in the side and rear yard on the property; and
- Applying for a Building Permit for the one story addition and deck in the side and rear yard

A follow-up inspection will be made at the expiration of this time period. If you have failed to comply with this notice at that time, this office will seek legal remedies to gain compliance with the Zoning Ordinance.

§ 18-701 Non Residential Use Permit:

It has been determined that Zaaki Restaurant, which was issued a Non-Residential Use Permit (Non-RUP) # 121590172 as an eating establishment on June 8, 2012 in the C-5 district. It has been determined that Zaaki has expanded its use by the addition of the one story addition and deck in the side and rear yard and the addition of a Hookah bar use. Zaaki Restaurant is occupying the above referenced property without having obtained the required updated Non-Residential Use Permit (Non-RUP). Therefore, you are in violation of Sect. 18-701 of the Fairfax County Zoning Ordinance which states:

No occupancy or use shall be made of any structure hereinafter erected or of any premises hereinafter improved, and no change in use shall be permitted, unless and until a Residential or Non-Residential Use Permit has been approved in accordance with the provisions of this Part. A Residential or Non-Residential Use Permit shall be deemed to authorize and is required for both the initial and continued occupancy and use of the building or land to which it applies.

If a Special Permit or Special Exception is required:

2-303 Special Permit Uses

1. No use of a structure or land that is designated as a special permit use in any zoning district shall hereafter be established, and no existing use shall hereafter be changed to another use that

is designated as a special permit use in such district, unless a special permit has been approved by the BZA and the use has been established in accordance with the provisions of Article 8.

2. No use existing prior to the effective date of this Ordinance which is allowed within a particular zoning district only by special permit by the provisions of this Ordinance, shall be replaced or enlarged except in accordance with the provisions of Sect. 15-101.

3. No special permit shall be required for a use that is listed as a permitted use in a district, notwithstanding that such use may also be included in a use group available by special permit. Provided, however, that if there is an existing and currently valid special permit for a use located on a lot which is zoned to more than one zoning district and there is an amendment to this Ordinance after the approval of the special permit which allows the use as a permitted use in one of the zoning districts in which the use is located while the requirement for a special permit continues in the other zoning district(s) in which the use is located, the special permit shall remain in full force and effect for the entire property, unless the BZA approves an amendment application to remove the land area from the special permit approval.

2-304 Special Exception Uses

1. No use of a structure or land that is designated as a special exception use in any zoning district shall hereafter be established, and no existing use shall hereafter be changed to another use that is designated as a special exception use in such district, unless a special exception has been approved by the Board and the use has been established in accordance with the provisions of Article 9.

2. No use existing prior to the effective date of this Ordinance which is allowed within a particular zoning district only by special exception by the provisions of this Ordinance, shall be replaced or enlarged except in accordance with the provisions of Sect. 15-101.

3. No special exception shall be required for a use that is listed as a permitted use in a district, notwithstanding that such use may also be included in a use category available by special exception. Provided, however, that if there is an existing and currently valid special exception for a use located on a lot which is zoned to more than one zoning district and there is an amendment to this Ordinance after the approval of the special exception which allows the use as a permitted use in one of the zoning districts in which the use is located while the requirement for a special exception continues in the other zoning district(s) in which the use is located, the special exception shall remain in full force and effect for the entire property, unless the Board approves an amendment application to remove the land area from the special exception approval.

You are hereby directed to clear this violation within thirty (30) days of the date of this Notice. Compliance can be accomplished by either:

- Vacating the premises, or;
- Obtaining the required Non-RUP. *When filing an application for the permit, bring this Notice with you.*

*Obtaining a Non-RUP may require site plan approval, a building permit, and/or a submission of a parking tabulation.

Resources:

- Building Permit Information (DPWES):
 - Customer Technical Support Center, 12055 Government Center Pkwy, 2nd floor
 - 703-222-0801
 - <http://www.fairfaxcounty.gov/dpwes/buildingpermits/>
- Non-Residential Use Permit (Zoning):
 - Zoning Permit Review Branch, 12055 Government Center Pkwy, 2nd floor
 - 703-222-1082
 - <http://www.fairfaxcounty.gov/dpz/zoning/non-rup.htm>
- Site Plan & Parking Tabulation Information (DPWES):
 - Site Review & Inspections, 12055 Government Center Pkwy, 5th floor
 - 703-324-1720
 - <http://www.fairfaxcounty.gov/dpwes/sitedevelopment/>
- Special Exceptions and Special Permits (Zoning)
 - Zoning Evaluation Division, 12055 Government Center Pkwy, 8th floor
 - 703-324-1290
 - <http://www.fairfaxcounty.gov/dpz/dpzdivisions/zed.htm>

A follow-up inspection will be made at the expiration of the time period outlined in this Notice. Failure to comply with the notice will result in the initiation of appropriate legal action to gain compliance with the Zoning Ordinance which can result in court ordered sanctions or civil penalties. Civil penalties may be ordered in the amount of \$200.00 for each violation of the Zoning Ordinance cited herein for the first violation and \$500.00 for each violation of the Zoning ordinance cited herein for any subsequent violation, in accordance with Zoning Ordinance §18-903(1).

You may have the right to appeal this Notice of Zoning Violation within thirty (30) days of the date of this letter in accordance with Sec. 15.2-2311 of the Code of Virginia. This decision shall be final and unappealable if it is not appealed within such thirty (30) days. Should you choose to appeal, the appeal must be filed with the Zoning Administrator and the Board of Zoning Appeals (BZA) in accordance with Part 3 of Article 18 of the Fairfax County Zoning Ordinance. Those provisions require the submission of an application form, a written statement setting forth the decision being appealed, the date of decision, the grounds for the appeal, how the appellant is an aggrieved party, any other information that you may wish to submit and a \$600.00 filing fee. Once an appeal application is accepted, it will be scheduled for public hearing and decision before the BZA. For information regarding an appeal contact:

Zoning Administration Division

Zaaki Restaurant and Café LLC (Tenant)
c/o Susan F. Earman, Registered Agent
December 15, 2015
SR 90548
Page 6

12055 Government Center Parkway, Suite 807
Fairfax, Virginia 22035
Office: (703)324-1314
Information and forms can also be obtained at <http://www.fairfaxcounty.gov/dpz/bza/appeals/>.

If you have questions, would like to schedule an appointment to meet with an investigator, or schedule a follow up inspection, please contact me directly at (703)324-1335. For any other questions, contact our main office at (703)324-1300.

LEGAL NOTICE ISSUED BY:



Signature

W. B. Moncure
Code Compliance Investigator
(703)324-1335
Chip.Moncure@fairfaxcounty.gov

From: Mertz, Matthew D.
Sent: Wednesday, August 17, 2016 12:26 PM
To: 'Susan Earman'
Cc: Moncure, Chip
Subject: 6020 Leesburg Pike, Appeal A-2016-MA-002

Hello Susan. Based on our August 4, 2016 meeting, it was my understanding that you would be submitting a use determination request, to include a detailed floor plan and a narrative of the use of the property, so that this office can determine whether the use of the property is an eating establishment with the Hookah component accessory to that, or whether the Hookah component is extensive enough to be considered its own principal use. As a separate use, Hookah would be considered commercial recreation, which is not a permitted use by-right at the subject property. At this time, this office hasn't received a use determination request. If it is still your intention to submit a use determination, please advise when you will be submitting the request? Also, during our August 4, 2016 meeting, it was my understanding that you submitted a site plan to the Department of Public Works and Environmental Services (DPWES), and one of the review comments required a geotechnical report. You subsequently submitted a geotechnical report for DPWES review, which is currently pending. Provided that the geotechnical report is approved, will you be submitting a revised site plan to DPWES very soon afterwards? Please advise on this item as well.

Thank you,

Matthew Mertz
Zoning Administration Division
703-324-1314



TWEETS 624 FOLLOWING 467 FOLLOWERS 194 LIKES 3 LISTS 1 [Follow](#)

Zaaki Restaurant

@Zaakiva

zaakiva.com Zaaki Restaurant and Hookah Bar presents the best Middle Eastern Cuisine and Events. 6020 Leesburg Pike, Falls Church, Virginia 22041

Falls Church, VA

zaakiva.com

Joined April 2013

Photos and videos



Tweets Tweets & replies Media

Zaaki Restaurant @Zaakiva · 6h
 ZaakiVA.com - Who is that in the picture? Yes you guessed it.....its @rihanna #RIHANNA in... [instagram.com/p/BJs8dsNAFsV/](https://www.instagram.com/p/BJs8dsNAFsV/)

Zaaki Middle eastern Restaurant and Hookah Cafe i...
 Zaaki middle eastern restaurant and hookah bar in the Fairfax - Falls Church - Arlington- Alexandria - Virginia - DC area serves the best middle eastern food, coffee,...
zaakiva.com

Navigation icons: back, retweet, and more options

Zaaki Restaurant @Zaakiva · 22h
 ZaakiVA.com - To subscribe and get the latest on our next event

Zaaki Restaurant and Hookah Bar in...

Zaaki Restaurant and Hookah Bar Presents Annual ...
<http://www.zaakiva.com> - Zaaki Middle Eastern Restaurant and Hookah Bar - Zaaki Entertainment - Zaaki Restaurant and Hookah Bar hosts its annual ...
[youtube.com](https://www.youtube.com)

Navigation icons: back, retweet, and more options

Zaaki Restaurant @Zaakiva · 23h
 ZaakiVA.com - our #summerjam #party with ecwashingtondc is the Top rated #celebrity visited... [instagram.com/p/BJrHkvig0BJ/](https://www.instagram.com/p/BJrHkvig0BJ/)

Navigation icons: back, retweet, and more options

Promoted Tweet