

The Board of Adjustments met Monday, July 17, 2023, at 5:00 PM at the City Municipal Complex, 161 N. Section Street in the Council Chambers.

Present: Anil Vira, Chairman; Cathy Slagle, Vice-Chair; Frank Lamia; Ryan Baker; Hunter Simmons, Planning and Zoning Director; Mike Jeffries, Development Services Manager; and Cindy Beaudreau, Planning Clerk.

Chairman Vira called the meeting to order at 5:01 PM.

**Approval of Minutes**

Ryan Baker made a motion to approve the minutes from the June 19, 2023, meeting.

Frank Lamia seconded the motion and the motion carried with the following vote:

Aye: Chairman Vira, Cathy Slagle, Frank Lamia, and Ryan Baker.

Nay: None.

**BOA 23.07** Public hearing to consider the request of the Applicant, Aloha Made LLC, on behalf of the owner, VFW Post 5660, for a Special Exception – Use on Appeal, to operate a restaurant in the M1, Light Industrial District. The property is approximately 1.23 acres and is located at 950 Nichols Avenue. **PPIN#: 92512**

Mike Jeffries, Development Services Manager, presented the request to allow a restaurant at the property located at 950 Nichols Avenue, owned by the VFW. Restaurant use is permitted on appeal and subject to special conditions. Mr. Jeffries shared the zoning map and the aerial of the property.

The VFW has agreed to allow the proposed restaurant to operate and use the commercial kitchen to cook in and serve out of the hall for seating. The restaurant will also utilize the VFW parking lot during the limited hours of operation. There is no expansion of the building being proposed. The restaurant will be occupying readily available space and entrance for patrons will be from the east side door. Mr. Jeffries shared the proposed site plan. Landscaping will be reviewed at time of review for business licensing and be required to come into compliance. The proposed restaurant will have up to 36 seats available for outdoor seating on a patio on the side of the building and 36-48 seats available inside. The restaurant will not be using the bar area. This number of total seats requires 19 parking spaces. The VFW currently has 67+ spaces for parking. Staff does not see parking as a concern within the limited hours of operation.

The hours of operations are limited to: Tuesday-Saturday from 10am-4pm during the summertime and Wednesday-Friday, 11am-2pm and Saturday, 11am-4pm during school time.

**Recommendation:**

Staff recommends approval of Case BOA 23.07, subject to the following condition:

1. Hours of operation are limited as shown above.

Anil Vira asked if the hours of operation could change based on need. Mr. Jeffries replied that no, the hours must stay within the conditional hours. Hunter Simmons, Planning and Zoning Director, added that the seating is limited as well as the hours. The Board of Adjustments is approving what is provided. Mr. Simmons added that since this is a shared space, the VFW will be using the space during its regular hours which are outside of the proposed hours for the restaurant.

Ryan Baker asked if a special exception is granted, does it stay with the property. If Aloha BBQ leaves and a different restaurant wants to open, would that restaurant already have the right to open. Mr. Simmons stated that the new restaurant would need to stay within the hours and seating that have been approved with this request. Mr. Simmons continued that the Board of Adjustments could add a condition that this approval is only for Aloha BBQ, if they want any new request to be brought back to the Board of Adjustments.

Mr. Baker asked for confirmation of whether the bar could operate in the M-1 district. Mr. Simmons stated that since uses are being added and under the non-conforming uses, the Board of Adjustments could make the VFW bring everything into compliance. If this was a restaurant buying the property, then staff might recommend that. Mr. Simmons spoke about the landscaping requirements and a condition could be added that landscaping screening will be installed on the westernmost parking area.

Mr. Vira asked if the food truck was moving into the building. Mr. Simmons stated that all food trucks need a commissary as a prep station. Mr. Jeffries explained that the commissary is an off-site location to keep dry goods stored, prepare, and restock so that the operation out of the truck is the food materials. There must be some area designated for their preparation and storage of food. Mr. Vira asked if they were prepping in the building and selling from the food truck. Mr. Simmons explained that the Health Department requires a safe place for food to be stored. Mr. Simmons stated that multiple food trucks could use this location as a commissary, but that does not mean those trucks can serve there. Aloha BBQ intends to serve at this location.

Raquel Faiupu, Owner, Aloha BBQ, requested that the hours be modified to Tuesday-Saturday, from 10am-4pm, year-round. Staff does not have a problem with the change in hours as long as, if the VFW needs the facility, Aloha BBQ will close.

Kerry Lambert, VFW Facility Manager, 104 Ann Street, Spanish Fort. Mr. Simmons asked if there was any discussion about landscaping out front. Ms. Lambert stated that there is landscaping in front. Ms. Lambert agreed that hedges would be installed on the front part of the parking area as a condition of approval.

Mr. Baker asked for confirmation of where the hedges would be installed. Mr. Simmons shared the aerial to show the exact area.

Chairman Vira opened the public hearing at 5:19pm. Mr. Vira shared an e-mail from Mr. Niemeyer who is in favor of the project. Having no one present to speak, the public hearing was closed at 5:19pm.

Chairman Vira asked for confirmation that they could add a condition that this approval is only for Aloha BBQ. Mr. Simmons stated yes, there is enough flexibility to allow for that. Mr. Simmons continued that a variance to the dimensions of the land, stay with the land, but a use like what is requested, would allow for that condition to be added. Mr. Vira stated that by adding the condition, it would allow the Board of Adjustments the flexibility to review a new project if Aloha BBQ closed. Mr. Simmons stated that he is not sure that adding that condition is necessary due to the seats provided and hours of operation guiding this request. If this request is approved, any new restaurant would need to abide by the stated conditions. Mr. Vira asked if a new restaurant wanted different hours, would that need to come back to the Board of Adjustments. Mr. Simmons stated that regardless of who it is, even without the stipulations, any physical changes in seats or hours, would need to come back to the Board of Adjustments. Frank Lamia confirmed that the latest that Aloha BBQ could be open would be 4pm. Mr. Baker asked for confirmation of whether the food truck would remain, or they would begin serving inside. Mr. Simmons explained that the food truck is there now, but after approval, they will begin using the common space of the VFW that is not being used during those hours.

Mr. Jeffries clarified that if Aloha BBQ did not have a food truck, they could make the same request today. If Aloha BBQ moved somewhere else, another restaurant could fill the space the same way as long as the seats and hours stayed the same. Mr. Simmons stated that any other restaurant wanted to move in, they would need to work with the VFW.

Ms. Lambert asked if Aloha BBQ left, and the VFW opened their own kitchen again, would the VFW restaurant hours need to match Aloha BBQ. Mr. Jeffries stated no because the VFW is acting as it always has. Ms. Lambert stated that they do not open until 3pm. Mr. Simmons stated that, by definition, the VFW is more of a private club, that is not open to the public for a restaurant service. If the VFW wanted to operate as a restaurant, staff would look at it differently.

Cathy Slagle asked if the VFW had a liquor license. Ms. Lambert stated yes but Aloha BBQ does not. Chairman Vira asked if someone could get BBQ at 3pm and then a beer at the VFW. Ms. Lambert stated yes if they have a member of the VFW with them.

Mr. Baker asked why staff wants Aloha BBQ to add the parking screen on a separate property. Mr. Jeffries stated that the parking area is a property with a shared parking agreement. Mr. Jeffries explained where all the parking spaces are that will be utilized.

Ms. Slagle asked if the earlier statement that the landscaping will be reviewed at time of review for business licensing and be required to come into compliance would cover the proposed condition of adding a parking screen. Mr. Jeffries agreed that it does, but with this request being a special use, by adding it to the conditions, it allows the applicant to be aware of what will be required at application for a business license.

Mr. Lamia agreed that trees along Nichols or landscaping that buffers the parking from the residents across the street is good, but he is not sure if putting trees in the middle of parking lots will help much. Mr. Simmons referenced the Tree Ordinance stating that Nichols has a 20' landscape requirement and what should be done within that area. If staff asks Aloha BBQ to meet that requirement, it may involve removing some asphalt. Staff does not feel that this use is enough to do that, but specifically, staff is requesting that Aloha BBQ meet the parking screening portion of the Landscape Ordinance. Mr. Lamia stated that he is not opposed to that.

**Motion:**

Frank Lamia made a motion to approve Case BOA 23.07, with two conditions:

1. Hours of operation are Tuesday-Saturday, from 10am-4pm, year-round.
2. Parking screen compliant with the City's Landscape Ordinance as approved by the City's Horticulture Supervisor.

Cathy Slagle seconded the motion and the motion carried unanimously with the following vote:

Aye: Chairman Vira, Cathy Slagle, Frank Lamia, and Ryan Baker.

Nay: None.

**Old/New Business**

Chairman Vira asked if there were any items for the next meeting. Mr. Simmons stated that there are no cases for next month.

**Adjournment**

Cathy Slagle made a motion to adjourn.

The motion carried unanimously with the following vote:

Aye: Chairman Vira, Cathy Slagle, Frank Lamia, and Ryan Baker.

Nay: None.

Adjourned at 5:33 p.m.

  
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Anil Vira, Chairman

  
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Cindy Beaudreau, Secretary