



ARLINGTON COUNTY, VIRGINIA

County Board Agenda Item Meeting of October 20, 2012

DATE: October 12, 2012

SUBJECT: U-3258-10-1 USE PERMIT REVIEW of an outdoor cafe in the public right-of-way at the Green Pig Bistro; located at 1025 N. Fillmore St. (RPC# 18-024-020).

Applicant:

Scot Harlan
Green Pig Bistro
1025 N. Fillmore Street
Arlington, Virginia 22201

C.M. RECOMMENDATION:

Renew the subject use permit for an outdoor café in the public right-of-way, subject to all previous conditions, with a County Board review in one (1) year (October 2013).

ISSUES: This is a request to renew a use permit for an outdoor cafe in the public right-of-way and no issues have been identified.

SUMMARY: This is a request for renewal of a use permit for an outdoor café in the public right-of-way. The applicant is compliant with the conditions of the subject use permit approval. The Clarendon-Courthouse Civic Association has sent a letter supporting the renewal of the use permit. All County agencies have reported favorably regarding the operation of the outdoor café.

There have been concerns from one or more nearby residents, unrelated to the operation of the outdoor café, regarding the location of deliveries to the restaurant and the use of an outdoor smoker. The applicant is currently working with County staff and the residents on several alternatives that will address these concerns. Therefore, staff recommends renewal of a use permit for an outdoor café in the public right-of-way, subject to all previous conditions, with a County Board review in one (1) year (October 2013).

County Manager:

BMD/GA

County Attorney:

[Handwritten signatures]

Staff: Peter Schulz, DCPHD, Planning Division

PLA-6290

8.

BACKGROUND: The subject use permit was originally approved in July 2010 for American Flatbread. American Flatbread vacated the space less than one (1) year later, and the use permit was renewed until October 2011 to allow the landlord to secure a new restaurant tenant. In October 2011, a one-year renewal of the use permit was granted to the new tenant, Green Pig Bistro.



DISCUSSION: The applicant requests renewal of a use permit for an existing outdoor café in the public right-of-way. When Green Pig opened in the spring of 2012, there were neighborhood concerns that the applicant had expanded beyond the approved space for outdoor seating. This issue has since been resolved and the applicant is compliant with all conditions of the use permit. Apart from the outdoor café, there have been concerns from nearby neighbors regarding deliveries to the restaurant at the rear door of the property, in the setback area between the building and nearby homes. Unfortunately, the building was constructed in such a way that there is no internal connection between the building’s loading dock and the retail bay where the restaurant is located. Therefore, all deliveries must be taken directly from the street into the restaurant. Questions were also raised by nearby neighbors regarding the use of a smoker outdoors in the landscaped rear area of the building. The Zoning Administrator is actively working with the applicant to resolve these issues, and staff will continue to work with the applicant and the community regarding the appropriate use of the inactive landscape buffer behind the building.

The applicant is otherwise compliant with all of the conditions of approval for the outdoor café and the affected Civic Association supports renewal of the outdoor café use. Furthermore,

outdoor cafes are a desirable addition to the streetscape by adding activity and interest, and outdoor cafes are encouraged in the *Clarendon Sector Plan 2006*.

Since the last review (October 15, 2011):

Use Permit Conditions: The applicant is currently in compliance with all use permit conditions.

Community Code Enforcement: The Code Enforcement Office has not reported any issues with the use.

Police Department: The Police Department has not reported any issues with the use.

Fire Marshal's Office: The Fire Marshal's Office has not reported any issues with the use.

Alcohol Beverage Control: ABC has not reported any issues with this use.

Civic Association: The site is located within the Clarendon-Courthouse Civic Association. The civic association has been notified and a letter of support for renewal is attached. The Civic Association further recommends the addition of conditions to add wording for strict compliance with all relevant zoning requirements and laws, and to continue to work cooperatively with the community in seeking clarification regarding the appropriate and permissible use of the inactive buffer. Given that the issues are not directly related to the operation of the outdoor cafe, conditions to this regard have not been added. However, the Zoning Administrator is actively working with the applicant to resolve the issues raised by the community, and staff will continue to work with the applicant and the community regarding the appropriate use of the inactive landscape buffer behind the building.

CONCLUSION: The applicant is compliant with the conditions of approval, the Civic Association supports renewal, and there have been no reported negative impacts to the immediate neighborhood from the outdoor café use. Furthermore, outdoor cafes are a desirable addition to the streetscape by adding activity and interest, and outdoor cafes are encouraged in the *Clarendon Sector Plan 2006*. Therefore, staff recommends renewal of the use permit for an outdoor café in the public right-of-way, subject to all previous conditions of approval, with a County Board review in one (1) year (October 2013).

Approved Conditions:

1. The applicant (as used in these conditions, the term “applicant” shall mean the owner, the tenant “Green Pig Bistro” and all successors and assigns) agrees that, in building or using any outdoor café on the property at 1025 N. Fillmore Street it will comply with the conditions set forth below and the drawings referenced below.
2. The applicant agrees that the outdoor café shall be in the same general location outlined in the heavy black line as shown on the attached drawing dated July 6, 2010, and as approved by the County Board on July 10, 2010, but in no case shall extend more than 25 feet from the front face of the building on North Fillmore Street. The applicant further agrees to maintain a minimum of six (6) feet of clear unobstructed sidewalk width at all times for the sidewalk along North Fillmore Street. Furthermore, the applicant agrees that any fencing or enclosure of the café be easily removable, and shall not be affixed to the ground.
3. The applicant agrees that the outdoor café shall close at 9 p.m. Sunday through Thursday, and 10 p.m. on Friday and Saturday.
4. The applicant agrees that there shall be no speakers, radio, or live entertainment in any outdoor seating area, and that exterior doors shall never be propped open.
5. The applicant agrees to designate a neighborhood liaison to communicate with nearby residents and neighbors to address concerns related to the outdoor seating and an onsite liaison that shall be available during the hours of the business operation to receive and respond to community concerns regarding the outdoor café. The applicant agrees that the name and telephone number(s) for the neighborhood and onsite liaisons shall be submitted to the Zoning Administrator and a copy sent to the Clarendon-Courthouse Civic Association, the Clarendon Alliance, and the residential townhouse neighbors across 11th Street North, and the single-family neighbors on North Edgewood Street.
6. The applicant agrees that the use permit shall be subject to review by the County Board upon a change in the tenancy of subject property.

11th Street North

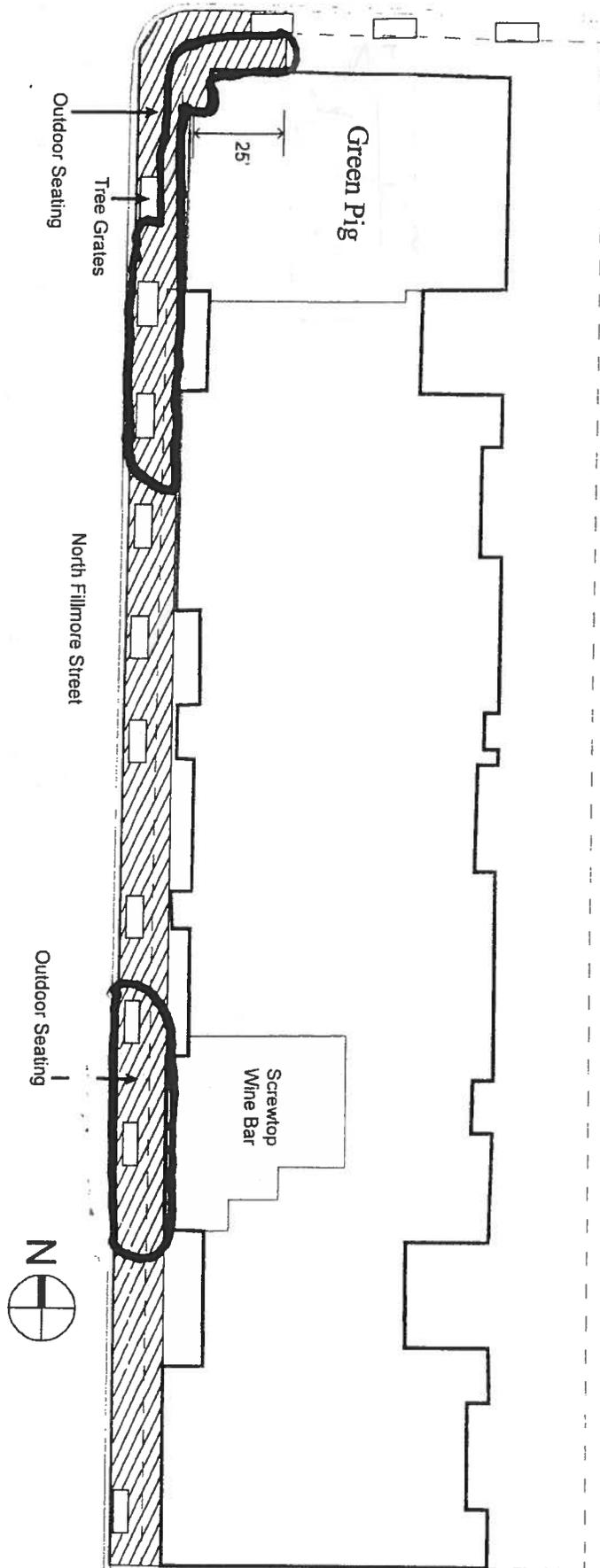


EXHIBIT 1

RECEIVED
JUL 06 2010
By



Clarendon-Courthouse Civic Association

September 24, 2012

Mr. Peter Schultz
Associate Planner
Department of Community Planning, Housing & Development
Planning Division
2100 Clarendon Blvd., Suite 700
Arlington, VA 22201

Peter,

On behalf of the Clarendon Courthouse Civic Association (CCCA), we appreciate the opportunity to share our position on the renewal of the outdoor seating use permit for Green Pig Bistro.

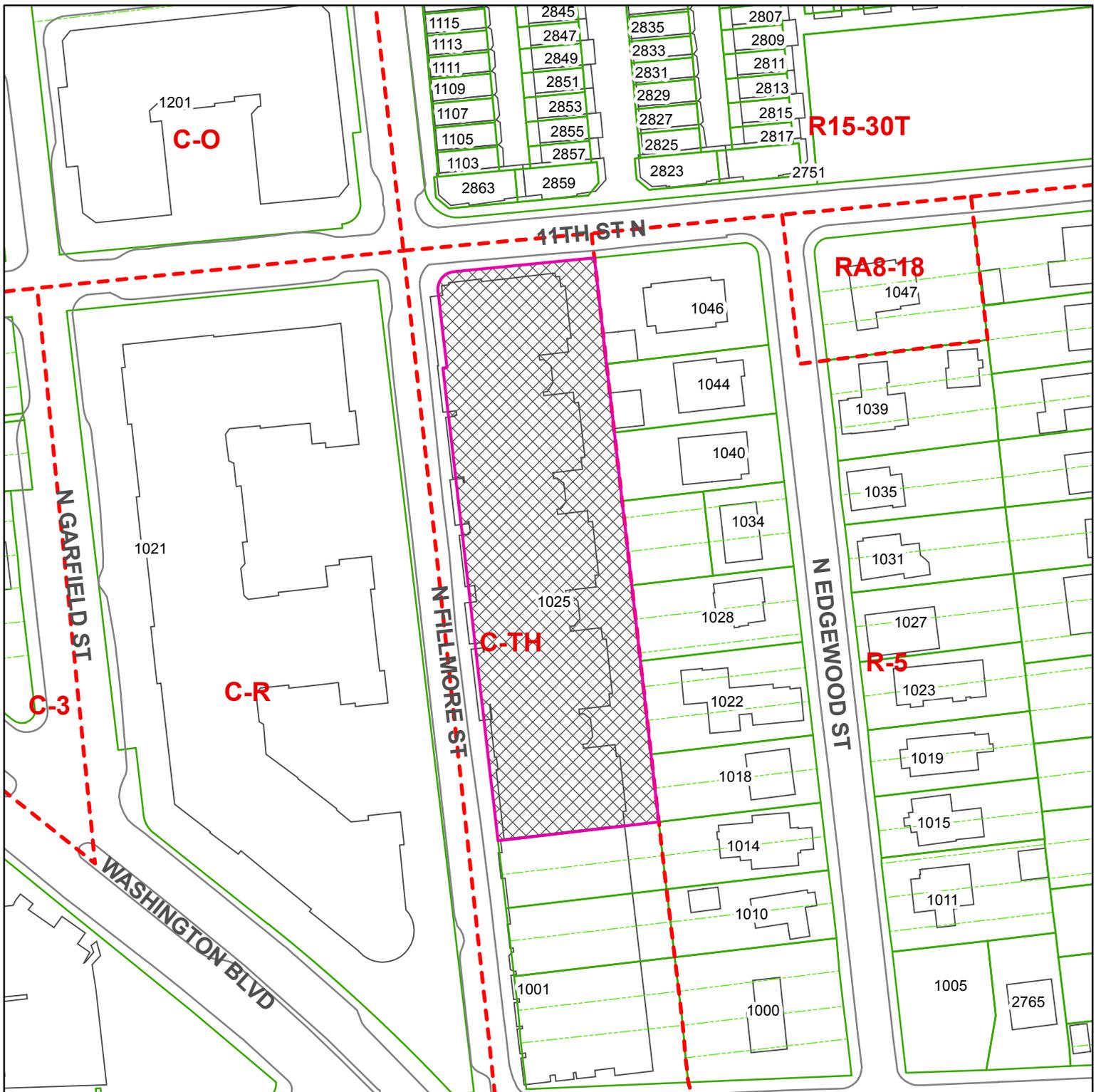
To frame our position, let me briefly provide a bit of background. Earlier this summer the CCCA raised concerns regarding compliance with the proffer condition allowing for outdoor seating for this establishment. We very much appreciate Mr. Harlan's willingness to work directly with the community to address those concerns. We are pleased to see that the seating is now routinely in compliance with the outdoor seating proffer condition for this property. However, there continues to be some disagreement on another proffer condition; that is, the appropriate use of the inactive buffer. Again, we appreciate Mr. Harlan's willingness to engage with the community despite our differing interpretations of what activities are allowed in the inactive buffer. To date, good faith efforts by both the CCCA and Harlan have not yielded a definitive understanding regarding the permissible uses of the inactive buffer.

The CCCA supports a one-year renewal of the outdoor seating permit for Green Pig with two additional use permit conditions. One is to add wording for strict compliance with all relevant zoning requirements and laws, and the second is to continue to work cooperatively with the community in seeking clarification regarding the appropriate and permissible use of the inactive buffer.

Regards,

Kenneth Fulton
CCCA President
703-243-2536

Cc: Mr. Scot Harland



U-3258-10-1

1025 N. Fillmore St.

RPC 18-024-020

Note: These maps are for property location assistance only.
They may not represent the latest survey and other information.



 Case Location(s)
Scale: 1:1,200