



ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item
Meeting of October 18, 2008**

DATE: September 30, 2008

SUBJECT: U-3018-01-1 USE PERMIT REVIEW for live entertainment and dancing at 3249 Columbia Pike (Sports House Grill) (RPC #25-012-015)

Applicant:

Hugo Flores
3249 Columbia Pike
Arlington, Virginia 22204

C. M. RECOMMENDATION:

Do not renew/Discontinue the use permit for live entertainment and dancing at 3249 Columbia Pike (Sports House Grill).

ISSUES: This is a review of a live entertainment use permit at the Sports House Grill, which has had five six-month reviews since 2005 due to chronic public safety issues. The use has continued to generate public safety concerns during this current six-month review period and is out of compliance with two of the use permit conditions.

SUMMARY: This is a review of a use permit for live entertainment and dancing at the Sports House Grill and Restaurant. Public safety issues have persisted at the establishment since 2005 despite many opportunities for improvement. The Arlington Police Department reports that there have been incidents regarding public intoxication and an altercation at the establishment since the last review in April 2008. In addition, the applicant has not completed the State Training Intervention Procedures (TIPS) program and has not been meeting with the Arlington Police Department to discuss potential safety issues on the site, as required by Condition # 8. The use is also not in compliance with Condition # 2, as the requirements of the Police Department and state ABC Board are not being met. Therefore, staff is recommending not renewing the use permit for live entertainment and dancing at Sports House Grill.

BACKGROUND: Sports House Grill is located at the intersection of Glebe Road and Columbia Pike in the Westmont Shopping Center. The original use permit for live entertainment at the Sports House Grill was approved with conditions on November 17, 2001, and was

County Manager: _____

County Attorney: _____

Staff: Melanie Wellman, DCPHD, Planning Division

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reviewed and renewed for three (3) years on November 16, 2002. In November 2005, the County Board reviewed and renewed the use for six months due to public safety and noise issues. In May and November 2006 and May 2007, the use was renewed by the County Board with six-month review periods because the Police Department noted a number of public safety issues related to intoxication and altercations outside of the restaurant and in the parking lot at this location. The use permit was inadvertently not reviewed in November 2007, but was reviewed again in April 2008. During the April 2008 review, upon finding that there were continued public safety issues on the site, staff recommended a new condition, # 8, requiring all restaurant staff to complete the State Training Intervention Procedures (TIPS) program and meet with the Arlington Police Department to address potential incidences on the site. Staff also recommended that if public safety issues continued to occur during the next review, that staff would recommend revoking the use permit for live entertainment.

DISCUSSION: Live entertainment is a use that is allowed only by special use permit, per the Zoning Ordinance. Section 36.G.1 of the Zoning Ordinance states:

Use permits may be issued for any of the special exceptions or conditional uses for which a use permit is required by the provisions of this ordinance; provided, that the County Board shall find that after a duly advertised hearing, the use will not: (1) affect adversely the health or safety of persons residing or working in the neighborhood of the proposed use; (2) be detrimental to the public welfare or injurious to property or improvements in the neighborhood; (3) be in conflict with the purposes of the master plans of the County. In granting any use permit the County Board shall designate such conditions in connection therewith as will, in its opinion, assure that the use will conform to the foregoing requirements and that such use will continue to do so.

Public safety concerns related to public intoxication, disorderly conduct, and an altercation outside the restaurant have occurred since the last review in April 2008. In addition, the applicant did not contact the Arlington Police Department until late September 2008 to initiate the TIPS training process. The TIPS program is a state program which provides training for staff of businesses serving alcohol and teaches restaurant staff how to recognize the appropriate circumstances under which alcohol should be served. As of the writing of this report, the TIPS program has not been completed by the applicant and restaurant staff. Without the TIPS training in place at the restaurant, it is difficult to determine how and if the program has impacted the use.

The state Alcohol Beverage Control Board (ABC) also notes that there have been administrative charges over the past six (6) months, which are violations of the ABC Act. A use that is not meeting requirements of the ABC Board, in addition to not meeting requirements of the Police Department, is not in compliance with Condition # 2 of the use permit conditions.

Given that public safety incidents continue to occur on the site, and the fact that the use is not in compliance with Conditions # 2 and # 8, staff is unable to recommend renewal of the use permit at this time. Not renewing the use permit for live entertainment means that any type of live music, karaoke, and dancing would be prohibited on site. However, the applicant may continue to provide public satellite television viewing of soccer games, as this is not considered to be live entertainment.

Since the Last County Board Review (April 19, 2008):

Use Permit Conditions: The live entertainment use is in violation of Condition # 2 of the use permit regarding adherence to state ABC and local public safety regulations. In addition, the use permit is in violation of Condition # 8, as the applicant has not completed the TIPS training and has not had a representative of the restaurant meet with the Police Department to address potential issues associated with the live entertainment use.

Community Code Enforcement: Community Code Enforcement has not expressed any concerns regarding the use permit.

Fire Marshal's Office: The Fire Marshal's Office has not expressed any concerns regarding the subject use permit.

Police Department: The Arlington Police Department notes that there have been several calls to this site since the last use permit review in April 2008. Some of the more serious calls were related to public intoxication, disorderly behavior, and an altercation in the parking lot of the establishment.

State Alcohol Beverage Control (ABC): The restaurant has been cited for ABC violations during this review period.

Civic Associations: The site is located in the Arlington Heights Civic Association and is adjacent to the Douglass Park and Alcova Heights Civic Associations. The Arlington Heights Civic Association has responded that they do not have any comments on the use permit.

CONCLUSION: Staff continues to have concerns about public safety incidents, which continued to occur over the past six (6) months at the establishment. Over the past five (5) reviews, since 2005, the applicant has not adequately addressed the public safety issues or met the requirements of the use permit conditions. Therefore, staff recommends the Sports House Grill use permit for live entertainment and dancing not be renewed. The use permit can be re-considered one (1) year after it is discontinued (October 2009). In order for staff to re-consider the use permit in one (1) year, the applicant and staff of the restaurant should be able to provide documentation that TIPS training was completed and that the situation regarding public safety has improved on site.

PREVIOUS COUNTY BOARD ACTIONS:

November 17, 2001	Approved use permit for live entertainment and dancing at Sports House Grill and Restaurant with a County Board review in one (1) year (November 2002).
November 16, 2002	Renewed use permit for live entertainment and dancing at Sports House Grill and Restaurant with a County Board review in three (3) years (November 2005).
November 15, 2005	Renewed use permit for live entertainment and dancing at Sports House Grill and Restaurant with a County Board review in six (6) months (May 2006).
May 20, 2006	Renewed use permit for live entertainment and dancing at Sports House Grill and Restaurant with a County Board review in six (6) months (November 2006).
November 14, 2006	Renewed use permit for live entertainment and dancing at Sports House Grill and Restaurant with a County Board review in six (6) months (May 2007).
May 5, 2007	Renewed use permit for live entertainment and dancing at Sports House Grill and Restaurant with a County Board review in six (6) months (November 2007). (This review was not performed as scheduled).
April 19, 2008	Renew, subject to all previous conditions and one (1) new condition, with a County Board review in six (6) months (October 2008).

Approved Conditions:

1. The applicant agrees to limit the hours of live entertainment and dancing by customers to Thursday through Saturday between the hours of 10 p.m. - 1 a.m.
2. The applicant agrees that all requirements on County and State Ordinances, the Environmental Health Bureau, the Fire Marshal, the Police Department and the Alcohol Beverage Control Board shall be met.
3. The applicant agrees that music resulting from live entertainment shall comply with the limits established in the County Noise Ordinance. The applicant agrees that during the hours of live entertainment all doors and windows shall remain closed. The applicant further agrees that if noise from the live entertainment use is identified as an issue, noise attenuation measures shall be immediately undertaken to minimize noise emanating from the facility.
4. The applicant agrees to develop and implement a parking plan, which shall be reviewed and approved by the County Manager or his designee prior to the issuance of any certificate of occupancy. The applicant agrees that the parking plan shall include the total number of parking spaces, the location of the parking spaces and the days and hours that the parking spaces are available, which shall be consistent with the approved days and hours of live entertainment.
5. The applicant agrees to identify a liaison between the subject use and the nearest neighborhoods. The liaison shall be empowered to address any concerns identified as emanating from the live entertainment. The applicant agrees to provide the name and telephone number of the liaison to the Douglas Park Civic Association, the Alcovia Heights Citizens Association, the Arlington Heights Civic Association, the Columbia Pike Revitalization Organization and the Zoning Administrator prior to issuance of a certificate of occupancy.
6. The applicant agrees to secure the required dance hall permit prior to offering dancing activities on the site.
7. The applicant agrees to secure a seating capacity determination for the newly expanded portion of the restaurant from the Office of Inspection Services prior to the issuance of a certificate of occupancy.
8. The applicant agrees to work with the Arlington County Police Department and ensure that all restaurant staff complete the State Training Intervention Procedures (TIPS) program. The applicant further agrees that a representative from Sports House restaurant will meet with the Police Department as required to address potential issues associated with the live entertainment use.