

STAFF EVALUATION

To: City Council

Prepared By: Tolu Ibikunle, AICP

728-5237

Reviewed By: Mike Hayes, AICP
Bonnie Brown

728-5244

727-6157

Case No.: Use Permit No. 19-00003

Date: July 10, 2019

General Information

Applicant Sly Clyde, LLC

Property Owner R. Hayden Smith, Inc

Location 207 E Mellen Street [LRSN 12001143] and 3 S Curry Street [LRSN 12001144] Sly Clyde Ciderworks



Requested Use Use Permit to allow live entertainment 2 in conjunction with a micro-brewery /distillery/cidery.

Description of Proposal The applicant is proposing to provide outdoor live entertainment on the patio/rear yard such as, movies and acoustic music which requires an approved live entertainment 2 permit by City Council.

The subject properties contain three buildings, a 2200SF two-story building that features a taproom on the first floor (1100SF) and offices, conference room, and break room on the second floor (1100 SF), a production building for brewing hard cider, and a vacant building that was formerly used as a florist shop. The rear yard space contains approximately, 30,567 square feet or ~0.7 acres which is where the outdoor live entertainment would occur.

The applicant's requested hours of outdoor live entertainment are from 6PM-10PM Monday through Thursday and 3PM-10PM Friday through Sunday.

Existing Land Use Micro-cidery with a taproom, hard cider production building, vacant building that was formerly used as a florist shop, green

house, and backyard with patio and deck.

Zoning & Zoning History

The subject site is zoned Phoebus Town (PH-2) District; which in this case permits live entertainment subject to an approved Use Permit.

207 E. Mellen Street was a part of a comprehensive rezoning this year (RZ18-00009). It was rezoned from PH-1 to PH-2 during the creation and adoption of the new PH-2 and PH-3 districts, an effort intended to be better recognize the varying degrees of urban development in the heart of Phoebus.

3 S. Curry Street is zoned Limited Commercial (C-2) District, but is the subject of an accompanying rezoning request. Rezoning No.19-00004 would bring 3 S. Curry Street into the PH-2 district, matching the rest of the facility.

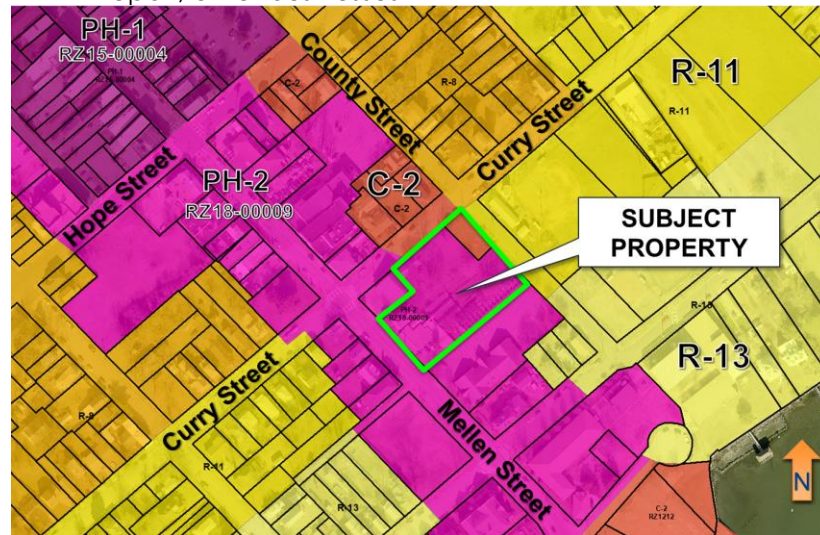
Surrounding Land Use and Zoning

North: C-2 (Limited Commercial), houses, R-8 (Single-Family Residence); R-11 (Single-Family Residence)

South: PH-2 (Phoebus Town), houses, R-13 (Single-Family Residence); Mellen Street, vacant lot

East: PH-2 (Phoebus Town), American Legion, R-11 (Single-Family Residence), County Street, Phoebus ball fields, R-13 (Single-Family Residence), St. Mary Star of the Sea School

West: PH-2 (Phoebus Town), R-8 (Single-Family Residence), R-11 (Single-Family Residence), homes, Cody's Lighting & Repair, other businesses



Public Policy

The Hampton Community Plan (2006, as amended) recommends mixed use development for the subject properties and much of the Phoebus business district.

Listed below are policies related to this request. These policies involve making Hampton a unique regional retail and entertainment destination by supporting the City's economic development priorities:

LU-CD Policy 4: Evaluate land use proposals from a regional, city-wide, and neighborhood perspective. [pg. LU-16]

LU-CD Policy 31: Encourage a mix of land uses that is appropriate for each district.

ED-6: Expand tourism, entertainment, and cultural opportunities within the city. [pg. ED-23]

The subject properties also fall within the Phoebus Master Plan, (2013, as amended), specifically in the Mellen Street initiative area. The Master Plan recognizes Mellen Street's tremendous potential as a regional destination with the American Theater, restaurants, and unique shops to attract visitors to Phoebus. The Curry Street parcel is recommended for infill residential development.

Applicable Regulations

The current zoning, PH-2 allows for outdoor live entertainment subject to securing an approved Use Permit. The purpose of this Use Permit is to identify the operational characteristics of the proposal and establish the conditions under which the facility will be operated. This action is necessary to ensure the safety and welfare of the public as well as minimizing impacts on the adjoining properties.

Traffic/Parking

The subject properties border three streets that qualify for the on-street parking credit, Mellen, Curry, and County Streets. In order to receive parking credits, the applicant must submit a written request to the Zoning Administrator.

The available on-street parking spaces that may be counted

must be adjacent to the subject properties. The on and off-street parking spaces are as follows:

Name	# of Spaces	Type
Mellen Street	6	On-street
Curry Street	8	On-street
On-site near vacant florist building	Estimate of 4	Off-street
	18	Total

For the PH-2 Zoning District, the first 5,000SF of most commercial uses are exempt from the parking requirement. For this case, the indoor uses are captured by the 5,000SF parking requirement exemption.

The uses not exempt from the parking requirement are places of assembly. Therefore, parking is required for the outdoor live entertainment area outside. For these areas, parking is calculated based on 1 space per 15 square feet of open space/dance floor area. The 15 square feet is based on the building code requirement of 5 square feet per person in standing room only type of situation; meaning, there is a requirement of 1 space per 3 people. This amount of parking cannot be accommodated on this site, so staff recommends limiting the capacity through a use permit condition. The twenty-six available parking spaces allows for 130 people, based on the 1 space per 3 people calculation. If additional legally qualifying parking spaces become available and applicable building code requirements are met, the capacity may be increased in the future.

Community Meeting

The applicant held a community meeting on Monday, May 13, 2019, 6PM, at Sly Clyde Ciderworks. There were approximately 15 people in attendance. The applicant expressed to attendees that he would be requesting outdoor live entertainment hours to end at 10PM daily, as opposed to the staff recommended outdoor live entertainment hours to end at 8PM daily. No one spoke in opposition of the proposal.

Analysis

Use Permit Application No. 19-00003 is a request for a Use Permit for Live Entertainment 2 in conjunction with a micro-brewery/distillery/cidery. The subject properties are located at 207 East Mellen Street [LRSN: 12001143] and 3 South Curry Street [LRSN: 12001144] totaling approximately 1.29 acres. The property is currently zoned Phoebus Town (PH-2) District which allows for live entertainment in conjunction with a micro-brewery/distillery/cidery subject to an approved use permit.

The existing business is called Sly Clyde Ciderworks and is operated by Sly Clyde, LLC. The applicant is proposing to provide outdoor live entertainment on the patio/rear yard such as, movies and acoustic music which requires an approved live entertainment 2 permit by City Council. Currently, the applicant has a live entertainment 1 permit that was approved through the live entertainment 1 administrative process. The live entertainment 1 permit has

several attached conditions, including hours of live entertainment that cannot exceed 10PM Sunday to Thursday and 11:59PM Friday to Saturday. Per the Hampton Zoning Ordinance, "live entertainment 1 venues provide live entertainment within a building, with or without a dance floor or similar gathering area, and having a performance space of 75 square feet or less. Any other live entertainment venue is considered a live entertainment 2 venue." The applicant plans to continue providing indoor live entertainment.

The subject properties contain three buildings, a 2,200SF two-story building that features a taproom on the first floor (1,100SF) and offices, conference room, and break room on the second floor (1,100 SF); a production building for brewing hard cider, and a vacant building that was formerly used as a florist shop. The rear yard space contains approximately, 30,567SF or ~0.7 acres. The outdoor live entertainment area where the musicians will play, will take place in the rear yard in the corner near the production building and Cody's Lighting & Repair. Please see the attached exhibit. The remainder of the open space allows guests to stand and enjoy the live entertainment.

The applicant's requested hours of outdoor live entertainment are from 6PM-10PM Monday through Thursday and 3PM-10PM Friday through Sunday. Although the applicant is applying for outdoor live entertainment, through the Use Permit conditions staff recommends permitting more expansive indoor live entertainment hours in order to be consistent with previously approved live entertainment 2 permits. The outdoor live entertainment hours are recommended to be limited in order to be consistent with a previous outdoor live entertainment permit that was proximate to a residential neighborhood. Those hours include:

Indoor

- Sunday - Thursday 11AM to 10:00PM
- Friday - Saturday 11:00 AM to 1:00 AM

Outdoor

- Monday-Thursday 4:00PM to 8:00PM
- Friday-Sunday 12:00PM to 8:00PM

However, there is a policy decision to be made by Planning Commission and City Council. As Mellon Street continues to come alive and become the envisioned dining, arts, and entertainment center, boundaries need to be clarified at some point. There is a potential conflict between the quiet evenings neighboring residents may be accustomed to and a livelier main street atmosphere. The Planning Commission and City Council may choose to modify the conditions to permit later hours. Please note that if approved, the live entertainment can occur anytime within these conditioned hours. These hours do not govern the operating hours of the cidery. The City's noise ordinance would still apply.

The Hampton Community Plan (2006, as amended) recommends mixed use development for the subject property and the core of Phoebus. The policies in the City's comprehensive plan related to this request signify the importance of making Hampton a unique regional retail, tourism, and entertainment destination, by supporting the City's economic development priorities. It also encourages a mix of land uses that is appropriate for each district. The proposed use permit is consistent with the City's economic development goals and policies, as outlined in the Hampton Community Plan (2006, as amended) and it will also serve as a neighborhood amenity for nearby residents. Additional policy guidance comes from the Phoebus Master Plan, (2013, as amended), which recognizes Mellon Street's tremendous potential as a regional destination with the American Theater, restaurants, and unique shops to attract visitors to Phoebus. The Curry Street parcel is recommended for infill residential development; though it was viewed as a separate parcel and development

opportunity rather than being a part of the adjoining parcel and what is today the Sly Clyde property.

Sly Clyde is yet another piece added to Mellen Street, continuing to enliven the main street area of Phoebus. Adding outdoor live entertainment would further the goal of making the heart of Phoebus a dining, arts, and entertainment destination.

Staff has identified several conditions based upon the proposed use's operational and land use characteristics. A few of them are highlighted below:

- The use permit only applies to the area depicted in Exhibit A of the conditions. It is important to note that, if the business operation changes and a new operator occupy the subject properties, the use permit remains valid so long as the use does not lapse for longer than two years.
- Staff is recommending a condition for live entertainment hours. These hours are typical of a live entertainment use permit.
 - **Indoor** live entertainment hours from Sunday through Thursday 11AM-11PM Friday and Saturday 11AM-1AM.
 - **Outdoor** live entertainment hours from Monday through Thursday 4PM-8PM and Friday and Saturday 12PM-8PM.
- A condition limiting the capacity of the subject properties to 130 people or the maximum capacity determined by the Building Official (whichever is fewer). The maximum capacity was determined by the Building Code and the parking requirements.
- A parking condition stipulates that all of the parking spaces (on and off street parking) must meet the dimensional standards set forth in the Zoning Ordinance.
- A security condition requiring that security services, consisting of in-house security officers, contracted security firm, or extra duty police officers at a minimum of 1 per 75 patrons for the live entertainment area during live entertainment events.

Based on the analysis of this proposal, staff recommend approval of Use Permit Application No. 19-00003 with 14 conditions.

Planning Commission recommend approval of Use Permit Application No. 19-00003, with 14 conditions, with condition #3 as amended which would allow the following:

- **Outdoor** live entertainment hours from Monday through Thursday 4PM-8PM 10PM and Friday and Saturday 12PM- 8PM-10PM.

Table 1: Recently Considered Applications for Live Entertainment						
Establishment	Adjacent to Single Family	Adjacent to Multi Family	Hours of Live Entertainment	Capacity	Decision	Indoor/Outdoor
Sly Clyde Ciderworks	No	No	Indoor: 11AM-11PM Sun-Thurs 11AM-1AM Fri-Sat Outdoor: 4PM-8PM Mon-Thurs 12PM-8PM Fri-Sat	130	TBD	Indoor & outdoor
Juan's Mexican Café & Cantina	No	Yes	Indoor: 11AM to 10:00PM Sun-Wed 11AM-12AM Thurs 11:00AM -2:00AM Fri-Sat		Approved	Indoor
Bowman's Soul-N-The-Wall	Yes	No	Indoor: Sunday-Thursday 11AM-11:00PM Friday-Sunday 11:00AM-1:00AM	85	Approved	Indoor
Capstan Bar Brewing Co.	No	No	Indoor: 5:30PM-12AM Mon-Fri 11AM-2AM Sat-Sun	70	Approved	Indoor
Bull Island Brewing Company 758 Settlers Landing Rd	No	No	Indoor: 11:00AM-12:00AM Sun-Thurs 11:00AM-2:00AM Fri-Sat	164	Approved	Indoor
Déjà vu Restaurant & Lounge 2080 Nickerson Blvd	No	Yes	Indoor: 11:00AM-12:00 AM Sun-Thurs 11:00 AM - 2:00AM Fri-Sat	160 or less	Withdrawn	Indoor
The Comfort Zone 2165 Cunningham	No	Yes	Indoor: 11:00AM-12:00 AM Sun-Thurs 2:00AM Fri-Sat	517	Approved	Indoor
The Vanguard 504 North King	Yes	No	Indoor: 11:00AM-11:00PM Sun-Thurs 1:00AM Fri-Sat Outdoor: 4:00PM to 8:00PM Mon-Thurs 12:00PM to 8:00PM Fri-Sun	1100	Approved	Indoor/Outdoor

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LV's 1565 Briarfield Road	No	Yes	Indoor: 11:00AM-10:00PM Sun- Sat		Approved	Indoor
Papa Ciccio's 89 Lincoln	No	No	Indoor: 11:00AM-12:00 AM Sun-Thurs 2:00AM Fri-Sat	125	Approved	Indoor
Sushi Hampton LLC (Sushi King) 5101 Kilgore	No	No	Indoor: 10:00PM Sun-Thurs 2:00 AM Fri-Sat Outdoor: 9:00PM Sun-Thurs 10:00 Fri-Sat	300	Approved	Indoor/Outdoor
Avenue Blue Piano Bar 2330 McMenamin	No	No	10:00 PM Sun-Thurs 2:00 AM Fri-Sat	168	Approved	Indoor
Stillwater Tavern (UP 14-00017) 555 Settlers Landing	No	No	12:00AM Sun. – Thurs. 2:00AM Fri. - Sat	80	Approved	Indoor
Grandview Island Grill (UP 14-00009) 155 State Park	Yes	No	Indoor: 12:00PM - 10:00PM Sun – Sat Outdoor: 4:00PM - 8:00PM Fri & Sat	134	Approved	Indoor/Outdoor
The Point (UP 1091-2013) 30 E Mellen	No	No	12:00AM Sun-Thurs 2:00AM Friday - Sat	80	Approved	Indoor
Applebee's (CP 139-2013) 2159 Coliseum	No	No	12:00AM Sun. – Thurs. 1:00AM Fri.- Sat.	165	Approved	Indoor
An Event to Remember (CP 136-2013) 2000 W Mercury	No	No	11:00PM Sun.-Thurs. 12:00AM Fri. - 1:00 AM Sat.	189	Approved	Indoor
The Turtle (CP 130-2012) 24 N Mallory	Yes	No	12:00AM Sun.-Thurs. 1:00AM Fri.-Sat.	105	Approved	Indoor
Bar Louie (CP-129-2012) 3530 Von Schilling	No	Yes	11:00 PM Sun.-Tues. 2:00 AM Wed.-Sat.	248	Approved	Indoor
The Jewish Mother (CP 128-2012)	No	No	12:00AM weekdays	80	Approved	Indoor

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2 Town Center			2:00AM weekends			
Mirro'z (CP 120-2011) 2710 W Mercury	Yes	No	11:00 PM weekdays 1:00 AM weekends	240	Approved	Indoor
Terra (CP 116-2011) 2330 McMenamin	No	Yes	11PM Sun.-Tues. 2:00AM Wed.-Sat.	160	Approved	Indoor/ Outdoor
Queens Way Soul Café (CP 112) 1144 Big Bethel	No	Yes	12:00 AM weekdays 2:00 AM weekends	148	Approved	Indoor