



Legislation Text

File #: 21-0090, Version: 1

Use Permit Application by Colonial Downs Group LLC to Amend the Conditions of an Amusement Center for an Indoor Off-Track Betting Horse Racing Facility at 1990 to 1996 Power Plant Parkway [Leasehold LRSN 13001056, portion] which is within the Power Plant of Hampton Roads Shopping Center [Parcel LSRN 3004808, portion]

Background Statement:

Use Permit Application to amend Condition #9, relative to the hours of operation for an established amusement center for an off-track betting horse racing (satellite wagering) facility. More specifically, the applicant is requesting to extend the existing operational hours by two (2) hours from 8AM-2AM daily to 8AM-4AM daily. The subject property is located at 1990 to 1996 Power Plant Parkway within the Power Plant Shopping Center.

The initial use permit (2018), which established the amusement center use, was approved by City Council on January 9, 2019, subject to 17 conditions. At that time, the applicant stated their intent to seek extended hours of operation sometime in the future. Staff's recommendation to them was to wait 12 months so that enough time would pass to provide useful data related to any potential impacts created by this use. Twelve months is consistent with the length of time after which staff would evaluate live entertainment permits. Rosie's Hampton location opened in October 2019 and closed temporarily between March and their reopening on July 1, 2020 due to State mandated COVID-19 restrictions. To date, the business has operated a total of approximately twelve (12) months.

When staff evaluated the initial use permit application, it was concluded that certain aspects of the satellite wagering facility were unique within our community. For example, extensive conditions have been applied to the application that address safety and security which reflects both the potential volume of money as well as the potential volume of people visiting the location. Staff also considered the conditions related to other operational aspects such as hours of operation. In this regard, staff looked at the original wagering facility and establishments with live entertainment as a reasonable comparison for regulating hours of operation, reasoning that businesses of this general type should be treated consistently.

Given the current request relates directly to hours of operation and that denial of this application would not rescind the existing use permit, staff's analysis of this request focuses on an evaluation of any land use or community impacts that may arise from an extension of the hours of operation. Since there is no proposed physical expansion of the facility, other potential land use impacts (i.e. environmental, drainage, sewer, water etc.) remain unchanged. Overall capacity of the facility also remains unchanged. Parking appears to be the only negative land use impact that has surfaced, and given that other businesses in the shopping center do not remain open during the hours of operation requested, 2AM to 4AM, parking should not be an issue.

This application was considered by Planning Commission at its September 17, 2020 meeting. At that

meeting a motion to approve failed with a 3-3 vote. A subsequent motion to defer pending a full 12-month of police call data also failed with a 3-3 vote; thus, there is no Planning Commission recommendation. Since the Commission meeting, the applicant voluntarily decided to defer the application being brought to Council for action until a complete 12-months of police call data could be collected.

The request for extended hours was vetted by both the Hampton Police Department (HPD) and the Coliseum Central Business Improvement District (CCBID) Board. Both entities expressed no concerns with expanding the hours of operation as long as the conditioned security plan continues to be effectively implemented. To date the comprehensive security plan has been effective. HPD provided Planning staff with a collective incident report, spanning between October 2019 and February 2021. During this timeframe only minor incidents, considered typical for a commercial shopping center, were reported; thus, HPD staff has determined there are no criminal behavior patterns or other concerning issues present that would justify not granting the requested extended hours of operation.

Recommendations:

Staff Recommendation:

Approve with 17 conditions

Planning Commission Recommendation:

"No recommendation"