

From: [Leslie Klein](#)
To: [PlanComm](#)
Cc: [Mindy Lyle](#); [Steve Harris](#)
Subject: [EXTERNAL]Opposition to SUP 2024-00026 (Hops n Shine) - June 4, 2024 Planning Commission Docket
Date: Monday, May 27, 2024 4:20:35 PM

Dear Members of the Alexandria City Planning Commission,

I am a homeowner in the Mount Vernon Court Community Association (MVCCA), and our small, private, residential block shares a non-soundproof fence with Hops n Shine. Thank you for the opportunity to comment on SUP application 2024-00026, Hops n Shine (2024), on which the Planning Commission will vote on Tuesday, June 4. While outdoor dining is a by-right law, live music and entertainment, games, and outdoor cooking are not. I urge you to reject the 2024 SUP and renew the 2023 SUP for an additional three years.

The Planning Commission and City Council got it right in 2023 by allowing this business significant privileges inside of their business, while allowing special events such as live musicians with a TES permit. These live events have a 3+ year documented history of causing disturbances to their neighbors. Since the approval of the 2023 SUP, this business failed to comply in each of their three TES permits – why would the City reward a delinquent, irresponsible, and dishonest business with blanket approval to do the very activities they couldn't even do with time and activity-bounded permits?

January 27, 2024: I noticed advertisements for a Hops n Shine party with live music on the patio, yet did not see an approved permit for the event. I asked Planning & Zoning staff about it. Turns out, it was a TES mistake, and staff helped fix the mistake the day before the event. However, the bar is also at fault for failing to follow up with their permit – it is their responsibility to not just apply for a permit, but actually have a permit before advertising or holding an event with the activities that are only allowed because of the permit. For example, we are in the process of renovating our kitchen. We submitted our permit requests to the City and even though we were supposed to start earlier, we waited until everything had been approved before starting our renovation. I imagine I would be in a lot of trouble if I moved my gas and water lines before my permits were approved and the work inspected. Responsible people don't take actions only allowed by permits until said permits are issued.

March 16, 2024: Hops n Shine hosted a St Patrick's Day party on the patio that included amplified live musicians. No neighbors were notified by the bar in advance. According to APEX, a permit was approved for "2 live solo acoustic acts from 1pm-8pm. Each act will be 4 hours, (1pm - 4pm / 4pm- 8pm) with no amplified sound." In addition to the amplified musician being clearly heard throughout the block and into our homes, photos show the musician had a microphone. At 7 pm that evening, we received a letter in the mail from the bar informing us

about the party as per the conditions of the permit, but a letter with a postmark of March 14 (PM) did not fulfill the requirement to notify neighbors in advance. While we are grateful the business moved the live musician indoors after receiving complaints; St Patrick's Day was not a mistake - it is a continuation of a pattern of an irresponsible business. Irresponsible businesses that do not consistently respect the rules should not be given additional privileges.

April 27, 2024: On April 24, I received TES-required notification about an upcoming Hops n Shine party featuring live music on their patio. I contacted TES to confirm the details of the event, and they verified that 1) TES changed the times to earlier hours than the bar requested and 2) the bar intended for there to be live, amplified music, despite specifically applying for a permit for acoustic music. They assured me that Norris Goins, the after-hours noise inspector, would be on site with the bar at the start of the event to test the dB of the amplified music and hear how loud live music was on the street and in our homes, as well as be available for any concerns throughout the event, and gave me his email & phone number. On Friday, TES spoke to the bar again, and the bar requested TES change the times on the permit, after the required notification had already been delivered to the neighbors and within the required 48 hours advance notice. TES told the applicant no changes. Reasonable, respectful, responsible businesses, particularly those in the middle of requesting new, more expansive SUPs 1) pay attention to the details of their permits so they can comply with them, and 2) request what they actually intend to do, and not something that seems less offensive (perhaps trying to pull a fast one to guarantee the permit was granted?) I spoke with Norris a couple times on Saturday afternoon, but there was never any live music and the bar didn't respond to his calls to test the sound equipment. He finally connected with the bar owners at the end of the scheduled event and they confirmed they weren't going to have any live music. Serious businesses take appointments with City staff seriously and don't stand them up.

I understand that Planning & Zoning staff want to give business owners every opportunity to thrive. However, this business continues to be irresponsible stewards of City regulations and should no longer be given the benefit of the doubt. Allowing Hops n Shine to hold amplified, live entertainment events for six hours a day Friday-Sunday, outdoor cooking, and extremely loud games ignores more than three years of documented history of how invasive these activities are on a residential community. Further, these recommendations ignore Hops n Shine's inability to consistently follow the rules of their TES permits and rewards them with blanket approval to hold events they couldn't get right with bounded permits. It's particularly disappointing that staff completely disregarded the well-documented, valid concerns of the neighbors and went off of vibes tested on a Monday afternoon with no patrons from a business with nearly 7 years of disregarding City regulations. Further, the staff report provides no recourse for the neighborhood, as many of the disturbances the bar caused in the past are now explicitly allowed, without review for an entire year. Finally, City staff stripping out the language that "all entertainment must be subordinate to the principal function of the restaurant as an eating establishment" and the Zoning Ordinance that states "uses cannot be

conducted in a manner that would render it noxious or offensive by reason of noise” is certainly a choice.

During their 2023 campaign, every stage of civic and City leadership indicated that they wanted this business to show – and not just say – that they would take City regulations and their commitment to being good neighbors seriously.

In May 2023, DRCA provided several recommendations, including working with MVCCA to improve the sound barrier, provide plastic mulch or astroturf to help absorb sound, eliminate Cigar Night, demonstrate compliance on the 2020 SUP for 18 months, and appoint a community liaison with our community. None of these recommendations were acted upon.

The Planning Commission also indicated in June 2023 that they wanted to see this business take steps to mitigate the noise nuisance. Commissioner Macek reiterated that this business can continue to hold events inside the business and use the patio – but that they needed to do something to ameliorate the sound. Commissioner McMahon said that your best friend doesn't make your best roommate - putting the number of supporters of the expansion in context - saying that they don't have to live within feet of the noise of the bar. The bar has taken no actions to meet the intent of the Planning Commission's recommendations.

City Council also held a lively two-hour debate about this business in June 2023. Councilwoman Gaskins asked the applicants if knowing the number of noise complaints from the neighborhood, why they hadn't explored soundproofing. She encouraged them to work with staff to take a proactive approach to move that forward. They have not. Councilwoman Bagley emphasized that the issue was not about the MVCCA's fence, but rather the things the applicant can do on their side of the property. One of the owners responded that he was willing to come up with solutions to help with the sound barrier. They have not. Councilman Chapman said “you don't come to the Principal's office and ask for new snacks, you deal with the problem at hand. That's what I want to see, and not just hear.” They have not.

So given the immense discussions last year about recommended improvements, it came as quite the surprise to see that this business was requesting a new SUP less than a year later, without any improvements. More disappointing was that they didn't even give us a courtesy heads up, much less any attempts to work with us.

At the April 30, 2024 DRCA Land Use Committee meeting, members asked the applicants why they had not taken any steps as recommended last year. One owner responded that while they looked into astroturf, it wasn't possible, because if a dog pees on it, it's really expensive to clean. In addition to that not being an issue for other area restaurants that have installed astroturf, it begs the question – are dogs regularly peeing on the ground where people are eating, kids are playing, and they are proposing to cook? While potentially outside the direct

scope of this SUP application, that seems like a health code violation. There was also a lively discussion about why the applicants were still in the extremely immature stages of research on noise mitigation a year after the recommendations were made. A responsible and trustworthy business would have completed what was asked of them last year before coming back asking for more.

Additionally, applicant portrays itself as a family restaurant. Family restaurants do not need their patios open past 9 pm, as U.S. families typically don't take their kids out to dinner that late. Family restaurants don't need amplified live music 6 hours per day. I would be very surprised if any children were ever present at any of their live music events – not only is the music not appropriate for kids, but it's extremely loud. If the focus of this business is on family events as the applicant says, astroturf would be a huge improvement over a concrete parking lot.

Finally, I, like you I assume, don't want to have to repeat this extremely time-consuming exercise annually. Working with City leadership in 2023 to get to the extremely reasonable agreement we came to was exhausting for our community. This business may come across as wanting to be part of the community, but in reality, it's anything but. During last year's SUP process, the applicant publicly chastised our neighborhood on social media, with claims like "the neighbors behind us have been submitting mostly false complaints about our noise" and doxing us with "it's a private townhouse community that decided to build their homes close to a commercial road..." Fortunately, this post was taken down by the administrator of the "Alexandria Dining – Curbside, Inside and More" Facebook group because it was inappropriate and dangerous, but the damage was done – and they showed their true anti-neighbor character. So not only are they lying about trying to work with us, their track record of putting our safety in jeopardy shows their true colors.

The MVCCA is extremely grateful this business has been mostly in compliance with their 2023 SUP. I've been very vocal in giving Planning & Zoning staff regular updates over the past year that everything the City did was working – I am extremely grateful we haven't had to repeat the process of enforcing City regulations via ALEX311 or affidavits when this business refused. New neighbors don't understand why this is an issue and it's because under the current SUP it is NOT an issue! But allowing any of the privileges they are applying for would be unproductive. The City worked extremely hard to find a compromise between the wants of a business and the needs of neighboring residents. I urge you to reject this SUP application and renew the 2023 SUP for an additional three years, which allows the business to have the privileges they are seeking, but with the appropriate checks and balances to respect their neighbors.

Thank you for your consideration and for all the time you've spent working on this issue.

Best,
Leslie Klein
