




STAFF REPORT COVER SHEET

April 25, 2018

Address:	303A Mill Street, NE	Case Number:	PF-26-18-CP
Public Meeting Date:	4/25/2018	Applicant:	Rawad Hasrouni/Bey Lounge
Board/Commission:	Planning Commission	Business Owner:	Lela, LLC DBA Bey c/o Rawad Hasrouni
Existing Zoning:	CM	Existing Land Use:	Commercial
Brief Summary of Request:	<p>The applicant is requesting re-approval of a conditional use permit (CUP) for live entertainment. The conditional use permit was originally granted in November 2015 for one year, re-approved for one year in November 2016, and re-approved for 6 months in November 2017.</p> 		
Site Improvements:	No site improvements proposed.		
Size of Property:	27,400 square feet with 4 tenant spaces		
Public Notice Requirements:	None for Planning Commission. Property was posted on April 16, 2018 and letters were sent to surrounding property owners on April 17, 2018 as courtesy. Prior to public hearing with Board of Zoning Appeals, application must be advertised in newspaper for two successive weeks, property must be posted for 2 consecutive weeks, and applicant must be sent written notice of meeting at least ten days prior to public hearing.		
Staff Recommendation: Recommend Approval to Board of Zoning Appeals			
Brief Analysis			
<p>RECENT PROPERTY HISTORY</p> <p>On November 22, 2017, Bey Lounge secured a six month extension of the CUP with the following conditions:</p> <ul style="list-style-type: none">• All previous conditions from the November 2015 order still apply.• All previous conditions from the November 2016 order still apply.• The Board of Zoning Appeals granted an addendum to the above previous conditions that between the hours of 11 pm to 2 am Friday and Saturday all noise cannot exceed 51 decibels at the back property line of Bey Lounge facing the residences.• The CUP is good for 6 months. <p>COMPATIBILITY WITH THE COMPREHENSIVE PLAN</p> <p>The Future Land Use Plan shows the area remaining as industrial with a mix of light industrial and commercial uses (such as restaurants and retail). The current use is compatible with the Comprehensive Plan.</p> <p>COMPATIBILITY WITH THE ZONING ORDINANCE</p> <p>The restaurant/bar known as Bey Restaurant and Lounge is an allowable use in the CM Zone. However, a CUP is required for live entertainment per Section 18-210.</p>			
Attachments:	BZA Orders 2015, 2016 & 2017 <input checked="" type="checkbox"/> CUP Application <input checked="" type="checkbox"/>		

ITEM NO. 3

Recommendation to the Board of Zoning Appeals for approval of a conditional use permit (CUP) for the continuation of live entertainment for Bey Lounge, located at 303A Mill Street NE, in the CM, Limited Commercial zone. Application filed by Rawad Hasrouni, owner. *(To be scheduled for the Board of Zoning Appeals meeting of May 22, 2018).*

Introduction/Characteristics of Existing Property:

The subject parcel, 303 Mill Street NE, is situated on the eastern side of Mill Street NE, near the intersection of Mill Street NE and Ayr Hill Avenue NE. The current owner of this property is listed in Fairfax County tax records as William B. and Judith B. Weber. This 27,400 square foot property is zoned CM, Limited Industrial and currently includes a cinder block building, approximately 159' long by 80' deep, with four separate tenant suites "A-D".

The Wooden Bakery occupies suite "A", Wooden Café/Bey Restaurant and Lounge occupies suite "B", Persico Rugs occupies suite "C" and Billy Weber Tire occupies suite "D". Currently the two suites A&B are leased and operated as one entity; the Wooden Bakery suite "A" must be open to serve food while the adjoining business Wooden Café/Bey Lounge suite "B" operates as a Café/Bar to meet Virginia Department of Alcoholic Beverage Control (VABC) alcohol to food ratio requirements.

Staff Report Summary:

Bey Lounge first secured a conditional use permit (CUP) for **live entertainment** on November 18, 2015. Live entertainment included belly dancing, jazz bands, live bands, and DJ's. The CUP was approved with the following conditions:

- The applicant files paperwork staff requires to deem the parking agreements valid and appropriate
- The parking agreements be maintained
- The applicant minimizes the sound from live entertainment and respond to complaints to keep sound levels at an appropriate level
- The applicant provides personnel in the parking lot at closing time to assist patrons leaving and keep noise to a minimum
- The conditional use permit is valid for one year from the date staff determines the parking agreements are valid. At that time the conditional use permit will need to be revisited and modified as necessary.

The CUP for Bey Lounge was renewed on November 16, 2016. These approvals were subject to the applicant agreeing to and abiding by CUP conditions including but not limited to;

- The applicant minimizes the sound from live entertainment and respond to complaints to keep sound levels at an appropriate level

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- The applicant provides personnel in the parking lot at closing time to assist patrons leaving and keep noise to a minimum
- The hours of operation be limited to midnight Sunday to Thursday and to 2:00 AM Friday and Saturday.

The CUP for Bey Lounge was renewed on November 22, 2017. The Board of Zoning Appeals granted the re-approval of the CUP with the following conditions:

- All previous conditions from the November 2015 order still apply;
- All previous conditions from the November 2016 order still apply;
- The Board of Zoning Appeals granted an addendum to the above previous conditions that between the hours of 11 pm to 2 am Friday and Saturday all noise cannot exceed 51 decibels at the back property line of Bey Lounge facing the residences;
- The CUP is good for 6 months.

Compliance with Conditions:

During the past two and a half years of operation there has been considerable concern from neighbors and citizens in regards to the noise associated with Bey Lounge. Multiple noise violations have been issued by the Police Department. Since opening, Bey Lounge has been issued noise violations ten (10) times, on the following dates:

- November 19, 2015
- February 20, 2016
- March 30, 2016
- May 22, 2016
- July 31, 2016
- October 14, 2016
- January 14, 2017
- January 21, 2017
- March 5, 2017
- October 1, 2017

The applicant has made several attempts to mitigate the noise with soundproofing per recommendations provided by an acoustics consultant. It appears that the implementation of the noise control recommendations have worked in mitigating noise. Since October 1, 2017, when the Police Department received a complaint of loud music coming from the area of Bey Lounge and Bey Lounge management was cited for the noise violation, there have been no citations for noise violations.

There have also been no violations of the hours of operation since it was documented on June 1, 2017 that Bey Lounge was open past midnight.

With the CUP order approved in November 2017, the Board of Zoning Appeals included a condition on the level of decibels allowed at the rear property line of the site. The condition states that the applicant, in order to comply with the order, cannot exceed a decibel reading of 51 decibels. The applicant has provided a chart of readings completed at the rear property line. None of the readings exceed 51 decibels. Staff has independently verified decibel levels during weekend late-night hours (between 11 pm and 2 am). Staff found that music produced inside the building cannot be heard from the rear yard property line. The only readings above 51 decibels occurred because of noise from vehicles passing by and by a air handler located on the building roof.

Staff Recommendation:

Staff recommends that the Planning Commission recommend approval of the conditional use permit to the Board of Zoning Appeals with a condition that the CUP is valid for three years. Since issuance of the most current CUP, the Police Department has not issued any citations for noise violations. Furthermore, staff has independently confirmed on several occasions that music from inside the building cannot be heard outside.

Staff recommends that the Planning Commission recommend the extension of the existing conditions with the exception that the condition for the number of decibels allowed at the rear yard property line be revised. Staff suggests recommending a condition that the applicant submit quarterly reports, certified by an independent sound engineer, showing periodic decibel readings at the rear yard property line (measured between the hours of 11 pm and 2 am on Fridays and Saturdays, during live music events).