

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

LAWRENCEVILLE UNITED and
LAWRENCEVILLE CORPORATION,

CIVIL DIVISION

Appellants,

No. S.A. 13-000846

v.

CONSENT ORDER

CITY OF PITTSBURGH ZONING BOARD
OF ADJUSTMENT,

Filed on Behalf of Lawrenceville United and
Lawrenceville Corporation;

Appellee,

The City of Pittsburgh Zoning Board of
Adjustment and the City of Pittsburgh; and

and

CITY OF PITTSBURGH,

Lawrenceville Holdings VI, LP

Intervenor,

Counsel of Record:

and

LAWRENCEVILLE HOLDINGS VI, LP,

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DEPT. OF COURT RECORDS
CIVIL/FAMILY DIVISION
ALLEGHENY COUNTY PA

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

LAWRENCEVILLE UNITED and
LAWRENCEVILLE CORPORATION,

CIVIL DIVISION

No. S.A.-13-000846

Appellants,

v.

CITY OF PITTSBURGH ZONING BOARD
OF ADJUSTMENT,

Appellee,

and

CITY OF PITTSBURGH,

Intervenor,

and

LAWRENCEVILLE HOLDINGS VI, LP,

Intervenor.

CONSENT ORDER

Lawrenceville United and Lawrenceville Corporation (collectively "Lawrenceville"), the City of Pittsburgh Zoning Board of Adjustment (the "Board"), the City of Pittsburgh (the "City"), and Lawrenceville Holdings VI, LP (the "Partnership"), all collectively referred to as the "Parties," respectfully submit the following Consent Order for entry by the Court:

I. The Partnership submitted an application to the Board requesting approval of several special exceptions and variances for development of property that the Partnership owns at 4021—4029 Butler Street in the Lawrenceville neighborhood of Pittsburgh.

2. The Partnership's application requested, inter alia, a special exception for an expanded use of the Thunderbird Café, located at 4023 Butler Street, under the use classification Restaurant (General).

3. The Board approved the Partnership's application in its entirety.

4. Lawrenceville appealed the Board's decision to this Court, and the Court reversed the Board's decision in its entirety.

5. The Partnership thereafter filed an appeal of this Court's decision with the Commonwealth Court of Pennsylvania.

6. During the pendency of the Partnership's appeal in the Commonwealth Court, the Parties mediated the dispute and ultimately reached a settlement, which they incorporated into a settlement agreement, executed on October 14, 2014.

7. As part of their settlement, the Parties agreed to prepare and jointly submit this Consent Order for entry by the Court.

8. Upon consideration of the Parties' submission, the Court hereby orders as follows:

9. This Court's ruling that the proper use classification for the Partnership's proposed use of the Thunderbird Café is Recreation and Entertainment Indoor (General) is vacated. Upon further consideration, and upon consent of the parties, the Court vacates its prior Order and affirms the Board's conclusion that the Partnership's proposed use of the Thunderbird Café is properly classified as Restaurant (General).

10. The Court reaffirms its ruling that the Partnership failed to prove entitlement to all other special exceptions and variances requested in its application to the Board.

11. The Partnership's proposed expansion is approved, subject to the following conditions and limitations:

- a. Total capacity of the Thunderbird Café, including show attendance, restaurant and bar patrons, and any outdoor seating or standing area, shall not exceed 382 persons;
- b. The Partnership's development of the other at 4021 to 4029 Butler Street shall be limited to retail or food-service uses. The limitations of this subparagraph shall cease to apply in the event the Thunderbird Café ceases to operate as a live-music venue;
- c. The properties owned by the Partnership located at 4021 to 4029 other than the Thunderbird Café shall not operate as, or be leased to others for the purpose of operating, a bar, club, dance club or similar venue that offers live music performances; provided, that nothing herein shall be construed to prohibit a full-service restaurant, with or without a liquor license;
- d. Parking for at least 75 vehicles in lots within 1,200 feet of the Thunderbird Café shall be provided prior to occupancy of the expanded Thunderbird. In the event that sufficient parking spaces are not available within the prescribed distance (1,200 feet), the Partnership shall submit an alternative proposal to Lawrenceville for approval, which approval shall not be unreasonably withheld;
- e. On-street parking shall not be counted toward the 75 parking space requirement, and the Partnership shall implement reasonable efforts to discourage on-street parking in the vicinity of the Thunderbird Café, such as by offering patrons incentives to park in parking lots leased and/or controlled by the Partnership;
- f. Any loading docks or similar facilities shall be located only on 41st Street and the Partnership shall ensure that all loading and unloading occurs only alongside the Thunderbird Café on 41st Street;
- g. The Thunderbird Café shall employ at least one security guard for every 100 people in attendance during live shows;
- h. No amplified music or sound system shall be permitted on any outdoor, rooftop deck at the Thunderbird Café;
- i. All furniture on any rooftop deck or similar outside seating or standing area of the Thunderbird Café shall be secured in a manner to prevent it from being blown or thrown from the deck;

- j. The Thunderbird Café shall operate a full kitchen during the hours of 11:00 a.m. to 11:00 p.m. from Sunday to Saturday;
- k. Soundproofing measures that comply with all local and state regulations must be installed and maintained to prevent music or entertainment from being heard outside the Thunderbird Café premises;
- l. Outdoor disposal of recyclables or the collection of trash, including recyclables, shall be prohibited between the hours of 10:00 p.m. and 7:00 a.m.;
- m. The Thunderbird Cafe shall conduct a litter cleanup of a one block radius surrounding the Thunderbird Café following each live music performance, beginning at 6:00 a.m. the morning following such performance;
- n. The Thunderbird Cafe shall not sell beer or malt beverages for takeout in containers exceeding 39 ounces;
- o. The Thunderbird Cafe shall take customer counts for all live music performances at the Thunderbird Café and shall provide such customer counts to Lawrenceville on a regular basis;
- p. Security cameras shall be installed at the front and rear entrances to the Thunderbird Café;
- q. The Thunderbird Cafe shall regularly publish a calendar of events that identifies the date and times of scheduled live music performances and indicates when a particular performance is sold out; and
- r. The Partnership and Lawrenceville shall meet quarterly to review compliance with the foregoing conditions and other operational issues that may arise.

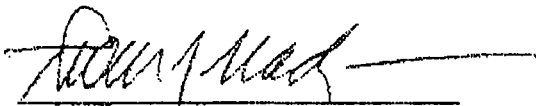
12. For the foregoing reasons, and subject to the foregoing conditions and limitations, the Court vacates that portion of its February 25, 2014 Order that reversed the Board's use classification of Restaurant (General) for the Partnership's proposed expanded use of the Thunderbird Café and affirms the remainder of its February 25, 2014 Order. It is further Ordered that the Partnership may proceed with development of its proposed use as outlined in

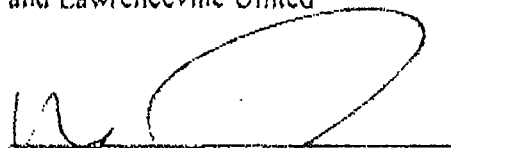
Paragraph 10 of this Order, and the City, the Board, and Lawrenceville shall faithfully carry out those obligations imposed on them by this Order.


By the Court


S. Judge

Consented to


Thomas J. Madigan, Esq.
Counsel to Lawrenceville Corporation
and Lawrenceville United


Mitchel Zemel, Esq.
Counsel to Lawrenceville Holdings VI, L.P.


Jason T. Zollett, Esq.
Counsel to the City of Pittsburgh Zoning
Board of Adjustment and the City of
Pittsburgh