



ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item
Meeting of December 13, 2008**

DATE: December 2, 2008

SUBJECT: U-3090-04-1 USE PERMIT REVIEW for a private ballet school; premises known as 5001 Lee Highway (RPC #08-001-088)

Applicant:
Adagio Ballet, Inc.

By:
Hristo Marintchev, President
6656 Sand Wedge Court
Alexandria, Virginia 22312

C. M. RECOMMENDATION:

Renew the subject use permit until September 30, 2009, at which time the use permit will expire, subject to all previous conditions, with amended Conditions #2, 4 and three (3) new conditions.

ISSUES: Neighborhood residents and the civic association continue to be concerned about the amount of vehicular traffic and illegal parking by people picking up and dropping off dance students.

SUMMARY: Since the original approval of this use permit in 2004, the applicant has experienced growth in the ballet school program, which has caused conflicts in the neighborhood due to the limited parking resources in the building and in the neighborhood in general. Neighbors complain of blocked residential driveways and double parking on the narrow dead-end North Dinwiddie Street. The applicant has been working with the community and making all possible efforts to inform parents and guardians of children in the ballet school of parking rules and restrictions. The applicant realizes that the parking situation is difficult, and his lease expires at the end of September 2009. In the meantime, the applicant is looking for a new location within Arlington for his program. Based on four (4) years of operation at this site, staff believes that this use is not appropriate for this particular site. Therefore, staff recommends that this use permit be renewed until September 30, 2009 upon which time it should expire, subject to all previous conditions, with amended Conditions #2, 4 and three (3) new conditions.

County Manager: _____

Staff: Peter Schulz, DCPHD, Planning Division

PLA-5146

BACKGROUND: This is a ballet school located in an office building at 5001 Lee Highway, at the corner of North Dinwiddie Street. The core age groups attending the program range from 3 to 18 years. The applicant has a maximum of 20 students on site at any given time. Classes operate from 9:30 a.m. to 8 p.m. Monday through Friday, 9:30 a.m. to 6 p.m. on Saturday, and 9:30 a.m. to 5 p.m. Sunday. The use permit was approved in 2004 and the first review was in 2007.

Since the original approval in 2004, the applicant's total enrollment in Arlington has grown to 550 children. According to inspections by the Child Care Office, the applicant is adhering to the use permit condition limiting classes to no more than 20 students at one time.

The applicant has exclusive use of six (6) parking spaces out of 30 spaces total in the underground parking garage attached to the building. The original conditions required parents to use these parking spaces. The remainder of the parking spaces are assigned to, and fully used by, other tenants in the building. There is also legal public parking available on both sides of North Dinwiddie Street immediately in front of the office building. Beyond the commercial frontage North Dinwiddie Street becomes an extremely narrow (30 foot right-of-way) dead-end residential street with no sidewalk or curb. There is a loading space for the office building on Dinwiddie Street that offers space for drivers to turn around, but if a driver misses the loading area and enters the residential portion of Dinwiddie Street, turnaround can only be accomplished by pulling into a residential driveway or a three-point turn onto the grass shoulder. There is no street parking on Lee Highway.

In October 2007, when the use permit came up for its first review (three years after the initial approval instead of the usual one-year review period), concerns were brought up by neighborhood residents about illegal standing, parking, and turnaround by parents on North Dinwiddie Street, and lack of compliance with the condition that children be escorted to and from the building. For this reason, the use permit was scheduled for a one-year review in 2008.

This use permit renewal has been deferred twice since October 2008 due to internal staff deliberations over the use and discussion with the applicant, the neighborhood, and other county departments to mediate problems related to pick-up and drop-off.

DISCUSSION: The applicant's program has grown significantly since the original approval in 2004. The original conditions of approval limited the maximum class size to 20. However, there was no corresponding cap on the total number of students. Adagio Ballet now has about 550 students in upwards of 30 classes per day, seven (7) days a week. The use has significantly exceeded all expectations of size and anticipated community impact, and the required six (6) parking spaces are inadequate for this use. Apart from these parking spaces, there is no off-street pick up and drop off space available.

The location of this use presents unique challenges that obtaining additional parking will be difficult, and might not alleviate the pick-up and drop-off issues. For example, the building's front door is located on the North Dinwiddie Street frontage, which encourages drivers to park immediately in front of the building rather than the parking garage. Staff has researched and visited the commercial properties in different ownership nearby and found that these properties

either have no parking to share, legally, or are located such that there is no safe or logically direct access by foot to the 5001 Lee Highway building.

The applicant has had meetings with the property manager of the building to try to pick up at least one more parking space on-site. However, with only 30 parking spaces available on site (all in the underground garage), and the building being fully tenanted with office uses, any gain on Adagio's part might result in loss of required parking for another tenant. When this building was constructed in 1985, the builder created only the minimum required number of general office parking spaces based on the square footage of the building.

To alleviate the parking and drop-off/pick-up situation, the applicant has made serious proactive efforts to educate the parents and guardians of the students about the parking regulations and courtesy to the neighborhood: This information is prominently featured on the applicant's web page; parents have to sign a legal form that (among other things) includes an acknowledgement of the parking restrictions; the applicant has created business-card-style parking reminder cards he gives to parents, sent mass-emails and flyers to all parents; encouraged carpooling; verbally reminds parents before the school year and again at the beginning; and asserts that he has personally knocked on the doors of the North Dinwiddie Street residents to give them his contact information. Lately, the applicant has had an Adagio Ballet staff person stationed outside along the street at the busiest times (usually 4 to 5 p.m.) to direct traffic and ensure children are escorted safely. Staff has added new conditions to the use permit to memorialize some of the steps the applicant is already taking. For their part, the civic association and the neighborhood assert the applicant has not been cooperative with them.

Staff believes that while the applicant has attempted to mitigate the traffic and parking situation, the size of the use and its intensity is beyond what was anticipated at the time of original approval in 2004. The applicant also realizes this; his lease expires on September 30, 2009, and he is actively looking for a new location. Staff has offered to assist the applicant to find a suitable new location in the coming year.

The amended and new conditions are intended to address information sharing and parking management in order to reduce neighborhood conflict in the interim. However, the subject use is inappropriate for the site and the operation should terminate at the end of the applicant's existing lease. Therefore, staff recommends that this use permit be renewed until September 30, 2009, upon which time it will expire, subject to all previous conditions, with amended Conditions #2, 4 and three (3) new conditions.

Since the Last Review (October 2007):

Use Permit Conditions: The applicant has made good faith efforts to educate parents about legal parking options and courtesy to the community, and is compliant with all other use permit conditions.

Code Enforcement: Code Enforcement has inspected the premises and found parents causing traffic problems on North Dinwiddie Street. No other issues were found.

Fire Marshal's Office: No concerns reported on this site.

Child Care Office: The applicant is in good standing with the Child Care Office.

Civic Associations: The John M. Langston Citizens Association does not support continuance of the use permit. At the writing of this report, staff has not received comments from the Yorktown Civic Association. Many neighbors who live immediately adjacent to this site on North Dinwiddie Street are unanimous in their desire to see this use move elsewhere.

CONCLUSION: The applicant is making all possible efforts to follow the conditions of approval, and has been taking steps beyond what is required to mitigate traffic impacts. However the use remains too intense for this particular site, and the neighbors and the civic association also do not support the continuance of this use at this location. It is for these reasons that staff recommends that this use permit be renewed until September 30, 2009, upon which time it will expire, subject to all previous conditions, with amended Conditions #2, 4 and three (3) new conditions.

Amended and New Conditions:

2. The applicant agrees to inform all patrons to access and exit the site from Lee Highway and to use the parking lot located under the building when patronizing this site. If it is not possible to park in the garage, patrons may be allowed to park on Dinwiddie Street where it is legal to do so. Patrons must not park illegally on Dinwiddie Street, must not block neighbors' driveways, and must use the office building's loading area as a turnaround. The applicant further agrees to inform the parents of students attending the program that they shall escort their students to and from the building at all times. The applicant shall provide all information regarding parking before registration and when new terms begin. Patrons must sign a form indicating they have read and understood the parking rules. The applicant agrees to give parents periodic reminders about parking throughout the term.
3. The applicant agrees that the hours of operation of the program would be Monday through Sunday between the hours of 9 a.m. and 7 p.m.
4. The applicant agrees that students enrolled in the program shall range in age from 2½ to 18 years of age and that there shall be no more than 15 to 20 students enrolled in class at a given time. The total enrollment will be capped at the current number of students (550), and will reduce to no more than 400 students as of June 26, 2009.
5. The applicant agrees that at a minimum between 4 p.m. and 5 p.m. daily, a staff person or volunteer will be outside to monitor traffic and ensure that children are escorted to the building.
6. The applicant agrees to share his contact information with all nearby residents and the President of the John M. Langston Citizens Association.
7. The applicant agrees that the use permit shall expire September 30, 2009, or when the applicant obtains a Certificate of Occupancy at a new location, whichever is sooner.

Approved Conditions:

1. The applicant agrees to meet the requirements of the Child Care Ordinance, Community Code Enforcement Office, Environmental Health Bureau and the Fire Marshal's Office, including securing the appropriate assembly permit prior to the issuance of a certificate of occupancy.
2. The applicant agrees to inform all patrons to access and exit the site from Lee Highway and to use the parking lot located under the building when patronizing this site. The applicant further agrees to inform the parents of students attending the program that they shall escort their students to and from the building at all times.
3. The applicant agrees that the hours of operation of the program would be Monday through Sunday between the hours of 9 a.m. and 7 p.m.
4. The applicant agrees that students enrolled in the program shall range in age from 2½ to 18 years of age and that there shall be no more than 15 to 20 students enrolled in class at a given time

PREVIOUS COUNTY BOARD ACTIONS:

June 2, 1984	Authorized advertisement of a rezoning from “C-1” to “C-2” for the July 7, 1984 public hearing.
July 7, 1984	Rezoned 5001 Lee Highway (Z-2262-84-3) from “C-1” to “C-2”, with the condition a covenant be recorded forbidding certain “C-2” uses.
October 23, 2004	Approved use permit U-3090-04-1 for ballet school with a one (1) year administrative review (October 2005) and a three (3) year review by the County Board (October 2007).
October 22, 2007	Renewed use permit U-3090-04-1, subject to all previous conditions and a County Board review in one (1) year (October 2008).
October 18, 2008	Deferred a use permit renewal (U-3090-04-1) to the November 15, 2008 County Board meeting.
November 15, 2008	Deferred a use permit renewal (U-3090-04-1) to the December 13, 2008 County Board meeting.