



ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item
Meeting of January 24, 2009**

DATE: January 15, 2009

SUBJECT: SP #255 SITE PLAN REVIEW: live entertainment and dancing; 4001 Fairfax Dr. (Tara Temple) (RPC #14-029-014)

Applicant:

Nick Sangkhavasi, Owner
4001 No. Fairfax Drive
Arlington VA 22203

By:

T. Sanghavasi, General Manager
11101 Georgia Avenue #509,
Silver Spring, MD

C.M. RECOMMENDATION:

Renew, subject to all previous conditions and amended condition #1 and new conditions #5-7, with a County Board review in six (6) months (July 2009).

ISSUES: This is a review of an existing live entertainment use permit and there have been some complaints about noise from neighbors.

SUMMARY: This is a review of an existing live entertainment site plan amendment. Live entertainment was originally approved for “Jacques’ Café” by the County Board in 1989 and reviewed in 1990 and 1992. The restaurant has since changed ownership, and a scheduled County Board review in 1996 was not held. Some complaints from the neighboring condominium about noise triggered this review. Site Plan Inspections staff made an investigation and found that the applicant was compliant with the County noise ordinance and other original conditions of approval, with the exception of the requirement of “jazz combos”

County Manager: _____

Staff: Peter Schulz, DCPHD, Planning Division

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inherited from the original approval of Jacques' Café. Police calls to the site revealed that noise spilled out from doors propped open by smokers. The applicant agrees to new conditions to mitigate the effects. Since live entertainment use permits no longer specify the type of music allowed, staff recommends that condition be removed. In turn, the applicant agrees to three (3) new conditions to bring the conditions of approval in line with current practice for live entertainment. Staff recommends a six (6) month approval period in order to monitor compliance. Therefore, it is recommended that the site plan amendment be renewed subject to all previous conditions and amended condition #1 and three (3) new conditions, with a County Board review in six (6) months (July 2009).

BACKGROUND: The original site plan amendment for live entertainment and dancing at this site was approved in 1989 for "Jacques' Café", a restaurant that apparently offered Dixieland-style jazz as its musical specialty. Live entertainment "in the form of jazz combos" was permitted seven days a week, until midnight Sundays through Thursdays, and 1 a.m. Fridays and Saturdays. The Tara Thai restaurant assumed the site plan amendment when they replaced "Jacques' Café" in 1998. The Tara Thai restaurant has now become "Tara Temple" under the same ownership and underwent renovation in 2008.

While "Jacques' Café" had been reviewed by the County Board in 1990 and 1992, a scheduled County Board review in 1996 was not held. Noise complaints from the Eastview condominiums next door to the office building housing the restaurant prompted the current review. An investigation by the Site Plan Inspector showed that the applicant was not exceeding the County noise ordinance during the hours of live entertainment. Investigations by County Police showed that noise resulted from a door being propped open by smokers. The applicant was cooperative with police.

DISCUSSION: The applicant currently offers live entertainment, including DJ music, and dancing. The original live entertainment approval for "Jacques' Café" specified that the live entertainment be "in the form of jazz combos". It is not current practice by the County to limit the type of music a live entertainment applicant plays, so long as the applicant obeys the noise ordinance and the specified hours of operation. The live entertainment use otherwise currently operates in compliance with conditions of the use permit. The applicant has also agreed to new conditions that live music cannot be broadcast outside; outdoor radio may play until 10 p.m. as long as the speakers are directed towards diners, that entertainment patrons use the restaurant's entrance on Fairfax Drive, that doors and windows be closed during the live entertainment, and that the site plan amendment expires when ownership changes.

Since the Last Review (December 1992):

Site Plan Amendment Conditions: The subject use is in compliance with the conditions of the site plan amendment, apart from the requirement that music be from "jazz combos".

Community Code Enforcement: The Site Plan Inspector for the area investigated noise complaints and found the applicant in compliance with the County noise ordinance.

Fire Marshal's Office: The Fire Marshal's office has not expressed concerns.

Police Department: The Police Department states that they have responded to a couple noise complaints and the applicant has cooperated with them to abate noise by keeping doors closed.

Civic Associations: The Ballston-Virginia Square Civic Association had not responded to a request for comments. The Ballston-Virginia Square Partnership responded, and had no comments.

State ABC Board: The State ABC board has not expressed any concerns regarding this use.

CONCLUSION: The applicant is in compliance with approved use permit conditions and is in compliance with the noise ordinance. Staff recommends a six (6) month review to monitor compliance. Therefore, staff recommends renewal of the approved site plan amendment subject to the approved use permit conditions with an amended condition #1 and new conditions #5-7, with a review by the County Board in six (6) months (July 2009).

Amended Condition:

1. Live entertainment ~~in the form of jazz combos~~ shall be limited to Sundays through Thursdays from 5:00 p.m. to 12:00 midnight, and on Fridays and Saturdays from 5:00 p.m. to 1:00 a.m. Doors and windows must be kept closed during the hours of live entertainment.

New Conditions:

5. Live entertainment shall not be broadcast outside of the restaurant. The outdoor speakers may be used for radio until 10 p.m., but must be positioned so that they face downward toward outdoor diners.
6. When there is live entertainment, patrons must use the Fairfax Drive entrance to the restaurant.
7. The site plan amendment for live entertainment and dancing expires when the restaurant goes out of business or a majority interest is sold.

PREVIOUS COUNTY BOARD ACTIONS:

- April 8, 1947 Granted rezoning request (Z-568-47-1) from “R-5” to “RA8-18” on premises known as 1002 North Quincy Street.
- July 8, 1947 Granted rezoning request (Z-568-47-1) from “R-5” to “RA8-18” on premises known as 1017 North Randolph Street.
- July 29, 1978 Accepted withdrawal of rezoning request (Z-2126-78-5) from “C-2” to “RA4.8” (Area 5B) on premises known as 4001-4033 North Fairfax Drive.
- July 11, 1987 Approved a rezoning request (Z-2334-87-2) for a change in land classification from “RA8-18,” Apartment Dwelling District and “C-2,” General Commercial District to “R-C,” Apartment Dwelling and Commercial District on premises know as 1002, 1004, 1006, and 1008 North Quincy Street, 1003, 1011, 1013, 1015, and 1017 North Randolph Street and 4001, 4017, 4027 and 4033 North Fairfax Drive.
- Approved a site plan (Z-2334-87-2) for a mixed-use office, commercial and residential development in conjunction with the above rezoning.
- March 5, 1988 Approved a site plan amendment (Z-2334-87-2) to modify the first floor elevation of the Fairfax Drive frontage to replace the uniform 12-foot recessed arcade with a façade varying in depth from three to 12 feet on premises know as 4001 North Fairfax Drive.
- December 2, 1989 Approved a site plan amendment (Z-2334-87-2) for live entertainment including customer dancing in conjunction with a restaurant.
- December 8, 1990 Continued a site plan amendment (Z-2334-87-2) for live entertainment with a review in two (2) years.
- September 14, 1991 Deferred a site plan amendment (SP #255) for decorative banners in the courtyard to November 16, 1991.
- November 16, 1991 Deferred a site plan amendment (SP #255) for decorative

banners in the courtyard to December 7, 1991.

December 7, 1991

Approved a site plan amendment (SP #255) for decorative banners on light poles in the courtyard between the office and residential buildings on premises known as 4001 North Fairfax Drive.

December 12, 1992

Renewed a site plan amendment (SP #255) for live entertainment and dancing in an existing restaurant, Sundays through Thursdays from 5:00 p.m. to 12:00 midnight, and Fridays and Saturdays from 5:00 p.m. to 1:00 a.m. for the parcel of real property known as 4001 North Fairfax Drive, subject to all previous conditions and review in four (4) years (Jacque's Café).

June 18, 2005

Approved a site plan amendment (SP #255) for a rooftop sign.

Approved Conditions:

1. Live entertainment in the form of jazz combos shall be limited to Sundays through Thursdays from 5:00 p.m. to 12:00 midnight, and on Fridays and Saturdays from 5:00 p.m. to 1:00 a.m.
2. Dancing shall be limited to customers only. No dancing by the entertainers shall be permitted.
3. No dancing shall be permitted prior to the applicant securing a valid dance hall permit.
4. The applicant shall provide suitable soundproofing materials to adequately contain all sound within the building.