



## ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item  
Meeting of April 25, 2009**

**DATE:** April 10, 2009

**SUBJECT:** SP #269 SITE PLAN AMENDMENT: Caribbean Breeze, live entertainment and dancing; 4100 N. Fairfax Dr., (RPC #14-046-025)

**Applicant:**

Mike Cordero  
4103 Winter Harbor Ct  
Chantilly, Virginia 20151

**By:**

William Schmidt, Esq.  
4103 Chain Bridge Rd, Ste. 400  
Fairfax, Virginia 22030

**C. M. RECOMMENDATION:**

Approve the site plan amendment request for live entertainment and dancing, subject to the conditions of the staff report, and with a County Board review in one (1) year (April 2010).

**ISSUE:** This is a new site plan amendment for live entertainment and dancing, which the applicant has already been conducting for some time. Issues that arose have been resolved and are discussed in detail in the report.

**SUMMARY:** The applicant requests a site plan amendment for live entertainment and dancing at the Caribbean Breeze restaurant in the ground floor of 4100 Fairfax Drive. Entertainment and dancing is proposed for seven days a week from 5 p.m. to 1:30 a.m., as well as a Latin Jazz Brunch (with no dancing) from 10 a.m. to 3 p.m. on Sundays. The site is on the south side of Fairfax Drive, within the Ballston Coordinated Mixed-Use District, one and one-half blocks from the Ballston Metro entrance, and is not immediately adjacent to residential uses. The Civic Association has also submitted a letter of support. Therefore, staff recommends approval of the site plan amendment for live entertainment and dancing, with a County Board review in one (1) year (April 2010).

**BACKGROUND:** The restaurant has been in operation since 2005, and live entertainment and dancing has been offered for some time. Code Enforcement calls relating to another nearby business revealed that Caribbean Breeze had been offering live entertainment and dancing without a site plan amendment or dance hall permit. When informed of this, the applicant

County Manager: \_\_\_\_\_

Staff: Peter Schulz, CPHD, Planning Division

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submitted the subject application. There have been no noise complaints or other code enforcement issues about this use, and the County Police report no issues.

The following provides more information about the site:

Site: The subject property is located on the ground floor of an office building at 4100 Fairfax Drive. The site is bound as follows:

- To the north: Across Fairfax Drive, the Berkeley and Eastview Condominium
- To the west: The International House of Pancakes
- To the east: Across Randolph Street, an office building.
- To the south: The Richmond Square Apartments

Zoning: The site is zoned “C-O-A” Commercial, Office and Apartment Districts. Zoning Ordinance Section 25A.A.1 permits restaurants with live entertainment and dancing by reference to the “C-2” regulations in Section 26.

Land Use: The site is designated on the General Land Use Plan (GLUP) as a “Coordinated Mixed-Use Development District” (*This is a high density mixed-use district with actual density determined by site size. Allowable up to 6.0 F.A.R. with office not more than 3.0 F.A.R.*); and note 6: “This area was designated a ‘Coordinated Mixed-Use Development District’ on 12/2/78”.

Neighborhood: The site is located within the Ballston-Virginia Square Civic Association, which has submitted a letter of support. In addition, the presidents of the Berkeley and Eastview Condominium associations were promptly forwarded copies of the application. Both Associations have no official positions on the live entertainment request.

**DISCUSSION:** The applicant has a Caribbean-themed restaurant that offers live entertainment and dancing. The proposed hours of live entertainment and dancing are 5 p.m. to 1:30 a.m. seven days a week, with an additional period for music (but not dancing) at a Latin Jazz Sunday Brunch from 10 a.m. to 3 p.m.

Staff supports this application for live entertainment and dancing. During the time the applicant has had live entertainment and dancing without the proper permits, there have been no known complaints to the code enforcement office, and the County Police Department had no issues with the restaurant. The use should have low-to no impact on residential uses in the general vicinity. While the Richmond Square apartment complex is behind the office building Caribbean Breeze occupies, the restaurant is oriented to the street and to the adjacent International House of Pancakes. Although located across Fairfax Drive, both the Berkeley and Eastview Condominium Associations have been offered the opportunity to comment early in the process. Neither association has an official position on the issue. One resident of the Berkeley expressed concern that the application would expand live entertainment and dancing to the courtyard outside of the restaurant. The citizen was informed that the applicant will have no entertainment

or dancing outdoors, and standard conditions on all live entertainment approvals forbid any outside entertainment or broadcast of such entertainment.

**CONCLUSION:** The applicant is located one and one-half blocks from the Ballston Metro station entrance, in the Ballston Development District, and is located very near other restaurants with live entertainment. Apart from not securing the proper permits in the first place, no other issues have been identified regarding the proposed use. Therefore, staff recommends approval of the site plan amendment for live entertainment and dancing, subject to the following conditions, and with a County Board review in one (1) year (April 2010):

New Conditions:

1. The applicant agrees that live entertainment and dancing will be limited to seven (7) days a week, from 10 a.m. to 1:30 a.m.
2. The applicant agrees to comply with all requirements of County and State Ordinances, the Environmental Health Bureau, the Fire Marshal's Office, the Police Department, Community Code Enforcement Office and the Alcohol Beverage Control Board.
3. The applicant agrees that live entertainment shall meet the noise limits established in the County Noise Ordinance.
4. The applicant agrees to ensure that all windows and doors shall remain closed when live entertainment is being offered. The applicant agrees that no live entertainment shall be permitted outdoors, and further agrees to ensure that live entertainment performances inside the restaurant will not be broadcast to the exterior of the restaurant over the restaurant's audio system.
5. The applicant agrees no customer dancing shall occur without the applicant first obtaining approval of a dance hall permit.
6. The applicant agrees to designate a neighborhood liaison to communicate with nearby residents and neighbors to address concerns which may be related to the live entertainment and an onsite liaison that shall be available during the hours of the business operation to receive and respond to community concerns regarding the live entertainment. The name and telephone number shall be submitted to the Zoning Administrator and a copy sent to the President of the Ballston-Virginia Square Civic Association.
7. The applicant agrees the restaurant live entertainment use shall terminate upon the termination of the current tenant lease or upon vacation of the current tenant from the subject site and shall not transfer to any other tenant without subsequent approval by the County Board of a new site plan amendment request.

PREVIOUS COUNTY BOARD ACTIONS:

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| December 2, 1978  | Amended the General Land Use Plan for the Ballston Metro Station Area 2 (GP-110-78-1) to a “Coordinated Mixed Use Development District”.  |
| May 31, 1980      | Amended the zoning (Z-2181-80-6) from “C-2” to “C-O-A”.   |
| November 19, 1988 | Approved a site plan [Z-2181-80-6 (SP-7)], now known as SP #269, for a mixed use project, subject to conditions.  |
| October 12, 1991  | Amended Site Plan #269 to extend the term to November 19, 1994, subject to all previous conditions and amended condition #56 and new condition #57.   |
| October 9, 1993   | Denied a site plan amendment to transfer office density from SP #269 to SP #256, and residential density from SP#256 to SP #269.  |
| July 9, 1994      | Approved a site plan amendment (SP #269) to incorporate additional site area, and a totally revised residential building, with new conditions for the residential building superseding all previous conditions, and the office building conditions remaining as approved November 19, 1988. |