



## ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item  
Meeting of June 13, 2009**

**DATE:** May 21, 2009

**SUBJECT:** U-3197-08-4 USE PERMIT RENEWAL for live entertainment and dancing located at 5169, 5171, 5173 Lee Hwy (Yorktown Bistro) (RPC #02-082-026).

**Applicant:**

FGW, Inc.  
Yorktown Bistro  
5171 Lee Highway  
Arlington, VA 22207

**C. M. RECOMMENDATION:**

Renew, subject to all previous conditions, and with a County Board review in three (3) years (June 2012).

**ISSUES:** This is a review of a live entertainment and dancing at the Yorktown Bistro and no issues have been identified.

**SUMMARY:** This is a review of live entertainment and dancing at Yorktown Bistro located in the Garden City Shopping Center on Lee Highway. The subject use permit was approved on June 17, 2008, and has operated in compliance with all use permit conditions since approval. The restaurant continues to have live entertainment in the form of musicians Thursdays through Sundays. The approved conditions help mitigate any potential impacts, and the Police Department has responded that there have been no issues with this establishment. Therefore, staff recommends renewal of the subject use permit, subject to all previous conditions, and with a County Board review in three (3) years (June 2012).

**BACKGROUND:** The subject use permit for live entertainment and dancing at Yorktown Bistro was approved on June 17, 2008. Prior to that, previous live entertainment use permits operated under the La Copa and Palladium restaurants at this location. It was difficult for those establishments to demonstrate compliance with public safety, hours of operation, and other regulations. In July 2006, the County Board voted to not renew the live entertainment use at Palladium due to the proliferation of adverse impacts on the community. Live entertainment and dancing has operated over the past year at Yorktown Bistro with no issues.

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

Staff: Melanie Wellman, DCPHD, Planning Division

PLA-5282

**DISCUSSION:** Yorktown Bistro is located in the Garden City Shopping Center at 5169, 5171, and 5173 Lee Highway, among other restaurant and retail uses. The restaurant obtained a Certificate of Occupancy in September 2007, and obtained a use permit for live entertainment and dancing in June 2008. During this review period the applicant has demonstrated compliance with the use permit conditions and County regulations. The live entertainment, offered Thursday – Sunday evenings, consists of a variety of live music, including jazz musicians during Sunday brunch.

**Since use permit approval (June 17, 2008):**

Use Permit Conditions: The applicant is in compliance with all use permit conditions.

Community Code Enforcement: The Code Enforcement Office has not reported any issues with the subject use permit.

Police Department: The Police Department has been contacted and reports that there have been no issues with this establishment.

Fire Marshal's Office: The Fire Marshal's Office has not reported any issues regarding the continuation of this use.

Civic Association: The subject use permit is located within the Yorktown Civic Association. The Yorktown Civic Association has been contacted and, to date has not provided a response regarding the use permit renewal.

**CONCLUSION:** The use permit for live entertainment and dancing at Yorktown Bistro has been operating in compliance with the use permit conditions and without issue since approval in June 2008. The approved conditions help mitigate potential impacts, and the Police Department has responded that there have been no issues with this establishment. Therefore, staff recommends renewal of the subject use permit, subject to all previous conditions, and with a County Board review in three (3) years (June 2012).

PREVIOUS COUNTY BOARD ACTIONS:

November 22, 1988	Deferred use permit (U-2604-88-1) for live entertainment, including dancing in an existing restaurant.
January 7, 1989	Accepted withdrawal of use permit (U-2604-88-1) for live entertainment, including dancing in an existing restaurant.
January 6, 1990	Deferred use permit (U-2657-89-2) for live entertainment, including dancing in an existing restaurant to February 10, 1990.
February 10, 1990	Deferred use permit (U-2657-89-2) for live entertainment including dancing in an existing restaurant to March 10, 1990.
March 10, 1990	Approved use permit (U-2657-89-2) for live entertainment, including dancing in an existing restaurant.
March 11, 1991	Approved use permit (U-2694-91-3) for live entertainment, including dancing with a six (6) month review.
November 16, 1991	Continued use permit (U-2694-91-3) for live entertainment, including dancing with a review in one (1) year (November 1992).
November 14, 1992	Continued use permit (U-2694-91-3) for live entertainment, including dancing with a review in three (3) years (November 1995).
November 21, 1995	Continued use permit (U-2694-91-3) for live entertainment, including dancing with a review in five (5) years (November 2000).
November 18, 2000	Continued use permit (U-2694-91-3) for live entertainment with a review in six (6) months (May 2001).
May 19, 2001	Continued use permit (U-2694-91-3) for live entertainment with a review in one (1) year. (May 2002) May 18, 2002 Continued use permit (U-2694-

	91-3) for live entertainment with a review in three (3) years (May 2005).
May 7, 2005	Continued use permit (U-2694-91-3) for live entertainment with an administrative review in three months (August 2005) and a review in six (6) months (November 2005).
November 15, 2005	Continued use permit (U-2694-91-3) for live entertainment with a review in two (2) months (January 2006).
January 21, 2006	Continued use permit (U-2694-91-3) for live entertainment with an administrative review in three (3) month (April 2006) and a review in six months (July 8, 2006).
July 8, 2006	Did Not Renew use permit (U-2694-91-3) for live entertainment.
June 17, 2008	Approved use permit (U-3197-08-4) for live entertainment (Yorktown Bistro) subject to the conditions of the staff report, and with a County Board review in one (1) year (June 2009).

Approved Conditions:

1. The applicant agrees that live entertainment shall be permitted only between the hours of Thursday 7 to 11:30 p.m., Friday and Saturday 7 p.m. to 1 a.m., and Sunday 11 a.m. to 2:30 p.m. and 4:30 p.m. to 8 p.m.
2. The applicant shall screen the trash dumpsters with a solid wood fence and ensure that all trash generated by the subject restaurant is appropriately stored in trash receptacles until such time as it is removed from the premises and that debris and discarded or unwanted items are not allowed to collect at the rear of the property. The applicant further agrees that all trash receptacles located at the rear of the site shall be well maintained and kept closed at all times. The applicant agrees to ensure that all trash is picked up along the Lee Highway frontage of the shopping center following close of business on Friday and Saturday nights.
3. The applicant shall ensure that all windows and doors to the subject site are kept closed at all times.
4. The applicant agrees to secure additional parking from adjacent businesses to support potential increased parking during the hours of live entertainment and the applicant shall make customers aware of any parking arrangements through postings in the restaurant. Customer parking shall not be permitted behind the restaurant. The applicant agrees to verify and identify, in writing, the location and permission to use any existing parking spaces and additional parking spaces that would be made available to its patrons during the hours of live entertainment. This document shall be shared with the nearest neighbors, the Yorktown Civic Association, and the County's Zoning Office. A minimum of 20 total spaces must be available to patrons.
5. The applicant agrees to identify an on-site 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 of the liaison shall be shared with the nearest neighbors, the Yorktown Civic Association, and the County's Zoning Office immediately upon approval of the use permit.
6. The applicant agrees that the door to the rear of the building shall be limited to deliveries, trash removal and emergency evacuation only. The applicant further agrees that there shall be no entry into or exit from the establishment permitted from this rear doorway by patrons.
7. The applicant agrees that all requirements of County and State Ordinances, the Environmental Health Bureau, the Fire Marshal, the Police Department and the Alcohol Beverage Control Board and the Code Enforcement Office shall be met.

The applicant agrees to ensure that all restaurant staff is enrolled in the Police Department's TIPS training. The applicant agrees to work closely with the Police Department to address any potential issues associated with the live entertainment use.

8. The 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 use permit request.