



ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item
Meeting of July 11, 2009**

DATE: July 2, 2009

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

Applicant:

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

By:

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

C.M. RECOMMENDATION:

Renew, subject to all previous conditions with a County Board review in six (6) months (January 2010).

ISSUES: This is a review of an existing site plan amendment for live entertainment and dancing and there have been some complaints about noise from neighbors, however the complaints have been fewer than during the previous review.

SUMMARY: This is a review of an existing live entertainment and dancing site plan amendment. Since the last review, the applicant is compliant with the conditions of the site plan amendment. Code Enforcement staff made an unannounced visit to monitor noise and found the applicant was within the law. According to the Eastview Condominium president and the County Police there have only been a couple complaints about noise during the review period. The specific complaints staff is aware of are not necessarily directly attributable to the live entertainment. Therefore, it is recommended that the site plan amendment be renewed subject to all previous conditions, with a County Board review in six (6) months (January 2010).

BACKGROUND: This site plan amendment was last reviewed in January 2009, after complaints from the neighboring condominium brought to the County's attention that the

County Manager: _____

Staff: Peter Schulz, DCPHD, Planning Division

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applicant was violating the terms of a site plan amendment for live entertainment, imposed on a previous tenant, dating from 1989. The January hearing resulted in significantly revised and updated conditions of approval, as well as a six-month review period to monitor compliance.

DISCUSSION: The applicant currently offers live entertainment, including DJ music, and dancing. The pace of complaints has reduced significantly in frequency since the January County Board hearing. The specific incidents staff is aware of between January and July have been a complaint about a wedding receiving line using the side entrance (from the shared courtyard with the Eastview Condominiums), and noise made by employees after closing one night. Staff notes that under the conditions of the site plan amendment, the use of the side door is not entirely prohibited after 10 p.m., but only when there is live entertainment occurring. According to the applicant there was no live entertainment during the brief period the door was open for the receiving line (the applicant's wedding). The other incident was due to the removal of old and broken furniture using the side door after closing time. Staff has counseled the applicant to prevent his employees from using the side door as much as possible after 10 p.m. Neighbors have also complained of groups smoking in the courtyard between the restaurant and the condominium, but all the applicant can do is discourage the practice through signs inside the restaurant. Keeping the side door closed when live entertainment is presented, in addition to preventing noise leakage, also makes going to the courtyard a longer trip for smokers, encouraging the majority of them to just stay by the main entrance.

The applicant has also shared his contact information with the Eastview Condominium Association as well as with the individual residents who attended the January public hearing.

Since the Last Review (January 2009):

Site Plan Amendment Conditions: The subject use is in compliance with the conditions of the site plan amendment.

Community Code Enforcement: The Code Enforcement Inspector for the area proactively monitored the area on a weekend night 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 one noise complaint during the review period, and do not object to renewal of the site plan amendment.

Civic Associations: The Ballston-Virginia Square Civic Association had not responded to a request for comments. The president of the Eastview Condominium has sent staff an email (attached).

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 the

noise ordinance, and is trying to keep lines of communication open with his neighbors. Staff recommends another six (6) month review to monitor compliance through the summer. Therefore, staff recommends renewal of the site plan amendment, with a review by the County Board in six (6) months (January 2010).

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 subject to all previous conditions and review in four (4) years (Jacques' Café).

June 18, 2005

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

January 27, 2009

Renewed a site plan amendment (SP #255) for live entertainment and dancing (was Jacques' Café, now Tara Temple) subject to new and amended conditions and a review in six (6) months (July 2009).

Approved Conditions:

1. Live entertainment 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.
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.
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.
8. The applicant must designate a community liaison who is available during the hours of live entertainment and must give his name and phone number to the Eastview Condominium Association and the Ballston-Virginia Square Civic Association.