



## ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item  
Meeting of September 26, 2009**

**DATE:** September 18, 2009

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

**Applicant:**

Nick Sangkhavasi, Owner  
4001 Fairfax Drive  
Arlington, Virginia 22203

**By:**

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

**C.M. RECOMMENDATION:**

Renew the site plan amendment for live entertainment and dancing, with one (1) revised condition and with a County Board review in six (6) months (March 2010).

**ISSUES:** This is a review of an existing site plan amendment for live entertainment and dancing and issues include noise resulting from proximity to residential uses.

**SUMMARY:** This is a six-month review of an existing site plan amendment for live entertainment and dancing. The review was deferred from the July hearing to allow the applicant to meet with the Eastview Condominium Association, who share a courtyard with the applicant's establishment. The subsequent meeting resulted in some additional agreements between the residents and the applicant, and the Association does not oppose the renewal. The applicant also agrees to reduce the permitted days of live entertainment and dancing from seven days a week to Thursdays through Sundays and Monday federal holidays. Therefore, staff recommends the County Board renew the site plan amendment with a revised condition #1 limiting the permitted days of live entertainment to Thursdays through Sundays and Monday Federal holidays, with a County Board review in (6) months (March 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

PLA-5351

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. In July 2009, the six-month renewal was deferred to the September County Board hearing to allow the applicant to meet with the neighboring Eastview Condominium Association, which had been strongly suggested by staff and the Board at the time of the January meeting.

**DISCUSSION:** The applicant currently offers live entertainment, including DJ music, and dancing. The live entertainment has been a source of contention from some residents of the adjacent Eastview Condominiums which share a courtyard with the office building in which Tara Temple is located.

The renewal was deferred in July 2009 to allow the applicant and the Eastview Condominium Association to hold a meeting to discuss their issues and come to some additional agreements. The applicant agreed to reduce the volume of the “house” background music to a level below that of the live entertainment and that there would be increased monitoring by restaurant staff to ensure the side door remains closed during the hours of live entertainment. The applicant additionally shared his contact information with the Eastview building manager.

The applicant has also agreed to reduce the permitted days of the week for live entertainment and dancing to Thursdays through Sundays and Monday holidays. The reduction in the permitted days of operation will be more in keeping with the proximity to residential uses, and in keeping with past Board practice where there is proximity of live entertainment to residential uses. Staff recommends renewal of the subject site plan amendment with an amended condition #1 that reduces the permitted days of live entertainment and dancing.

At the last Board meeting, there was a question about the County’s valet parking process. There is currently no specific County Code provision which authorizes the issuance of right-of-way permits for use of portions of County streets and right-of-ways for valet parking. If operated correctly, valet parking can increase convenience for patrons, increase accessibility to a site, reduce congestion, and increase utilization of curb space and off-street parking. If operated incorrectly, valet parking can result in blocking sidewalks, restricting access to public parking spaces, and traffic congestion. Staff is working on a process for the issuance of right-of-way permits for use of parking spaces or installation of proper traffic signage which would accommodate valet parking at appropriate locations. This may require amendments to the County Code.

**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 office has monitored the establishment in at least three (3) unannounced visits (at the time of this writing), at night between 8 p.m. and midnight on Fridays and Saturdays. They have been found at all times in compliance with the County noise ordinance. There are no other Code Enforcement cases on

this property.

Fire Marshal's Office: The Fire Marshal's office has not informed staff of any issues.

Police Department: The Police Department has not expressed concerns to staff.

Civic Associations: The Ballston-Virginia Square Civic Association attended the August 11, 2009 meeting, but has not submitted comments to date. The Eastview Condominium Association does not oppose the renewal with the new agreements they have reached with the applicant and the reduction in the days of the week.

State ABC Board: The State ABC board does not have any issues 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. Therefore, staff recommends the County Board renew the subject site plan amendment for live entertainment and dancing, with an amended condition #1 and County Board review in six (6) months (March 2010).

Conditions:

1. Live entertainment and dancing 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., and Sundays and Monday Federal holidays from 5:00 p.m. to 12:00 midnight . 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.

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).

