



ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item
Meeting of April 24, 2010**

DATE: April 2, 2010

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 Srisawat, Owner
4001 Fairfax Drive
Arlington, Virginia 22203

C. M. RECOMMENDATION:

Do Not Renew the subject site plan amendment for live entertainment and dancing located at 4001 Fairfax Drive (Tara Temple).

ISSUES: This is a recommendation to not renew the site plan amendment for live entertainment and dancing at Tara Temple restaurant in Ballston. Issues include noncompliance with the conditions of approval including the requirement for a liaison with the surrounding community.

SUMMARY: This is a six-month review of an existing site plan amendment for live entertainment and dancing. The site plan amendment has been reviewed at six-month intervals since January 2009 due to issues with the residents of the neighboring Eastview Condominiums. Since the last review in September 2009, the applicant's designated community liaison left the business, and no community liaison was designated in his place, violating condition #8 of the site plan amendment. The business has not made an effort, as the County Board encouraged at the September 2009 hearing, to reach out to neighboring residents to mitigate concerns about the use on its own initiative. The aforementioned liaison who left the business was also apparently the only person at the business who was familiar with the conditions of approval. The applicant has also resumed using the public right-of-way for valet parking, although he was told previously this is not permitted. The applicant has not demonstrated the responsibility or initiative that the live entertainment privilege requires in Arlington County. Therefore, staff recommends the County Board not renew the site plan amendment for live entertainment and dancing.

County Manager: BMD/GA

County Attorney: AWM/GAM

Staff: Peter Schulz, DCPHD, Planning Division

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PLA-5560

DISCUSSION: This is a request for a renewal of a site plan amendment to permit live entertainment and dancing at the Tara Temple restaurant in Ballston, located at 4001 Fairfax Drive. The applicant offers disc jockey music and dancing on the weekends and has been doing so since 2008, although such use was not permitted until the site plan amendment approval in January 2009. This is the third time the applicant has appeared before the Board since January 2009. All of the hearings so far have been on the Board's regular agenda due to opposition by neighboring residents of the Eastview Condominiums. The applicant first appeared before the County Board in January 2009 after complaints by residents of the neighboring Eastview Condominiums for offering disc jockey music and dancing without Board approval. The applicant's site plan amendment was approved with amended conditions and with a review in six (6) months, with the understanding that the applicant should reach out to the residents of the condominiums and meet with their Board of Directors. When, by July 2009, the applicant had not done so, the renewal was deferred to September 2009. By September 2009 the applicant had met with the Eastview Condominium association and the County Board reduced the days of the week live entertainment was permitted and renewed the live entertainment and dancing for an additional six (6) months. At the September hearing, the Board made it clear that the applicant was expected to maintain a relationship with the neighboring residents in order to mitigate conflicts.

In March 2010, staff learned the Tara Temple's designated liaison (T. Sanghvasi) had left the business several months before, and no other responsible person had been designated a liaison in his place. This is a violation of Condition #8 that states "*[t]he 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.*" The owner of the business confirmed to staff that no one had taken Mr. Sanghvasi's place as community liaison for several months, and furthermore admitted that no one in responsibility at Tara Temple was familiar with the conditions of the live entertainment approval since Mr. Sanghvasi's departure. Staff reminded the owner of the conditions of approval and the need to have staff at Tara Temple be familiar with it. When the lack of a community liaison was brought to the owner's attention by staff earlier this month, the owner stated that he would immediately designate a new liaison and would give it to the Eastview Condominiums.

It has also come to staff's attention that the applicant continues to use the public right-of-way for valet parking. The applicant had previously been informed that use of the public right-of-way for valet parking was prohibited.

There also continues to be concerns by residents of the Eastview Condominiums over noise emanating from the restaurant during live entertainment, including doors being propped open in violation of Condition #1 requiring "*doors and windows must be kept closed during the hours of live entertainment.*" Staff has concluded that, while the policy toward live entertainment has not been intended to regulate the type of music an applicant may offer, deejay style dance music with heavy bass may not be an appropriate format of live entertainment in such close proximity to residences.

Since the Last County Board Review (September 2009):

Site Plan Amendment Conditions: The applicant had been in violation of Condition #8 requiring a community liaison for several months until discovered by staff. Since the community liaison had left, there was no one on site familiar with the conditions of approval. Neighbors also report violations of the condition to keep doors closed during times of live entertainment.

Community Code Enforcement: At the time of this writing, Community Code Enforcement is investigating community complaints about compliance with the conditions of approval regarding the closure of doors and windows during live entertainment, and the use of the public right-of-way for valet parking.

Fire Marshal's Office: The Fire Marshal's Office has not expressed any concerns regarding the subject use.

Police Department: The Arlington Police Department states that there has been at least one call regarding noise. The police did not observe valet parking when they checked the premises on April 7 and 10.

State Alcohol Beverage Control (ABC): ABC has not expressed any concerns regarding the subject use.

Civic Associations: The site is located in the Ballston-Virginia Square Civic Association, which has not expressed any concerns regarding the use. Board members of the Eastview Condominium Association as well as individual Eastview residents have expressed concerns about the use.

CONCLUSION: Until late March, the applicant had been out of compliance with the site plan amendment condition requiring a designated community liaison who can respond immediately to community concerns. At the previous renewal hearings in January and September 2009 the Board had made it clear to the applicant that maintaining good relations with the residents of the Eastview Condominiums was essential. Tara Temple had not made an effort to follow up with another community liaison until staff discovered the lack of a liaison and informed the owner. Furthermore, from staff's conversation with the owner, the only person at the restaurant who was familiar with the conditions of live entertainment approval was the community liaison who had left several months before. In addition, there was a long discussion at the September hearing about valet parking, and that the applicant was informed that valet parking was not permitted in the public right-of-way, and agreed to cease valet parking immediately. Since then the applicant has apparently resumed the practice. The applicant has neither demonstrated an awareness of, nor an ability to comply with, the conditions of approval, nor has he complied with the expectation the County Board had expressed at the January, July and September 2009 public hearings that the restaurant establish a relationship with, and be responsive to, the nearby residents, and cease the valet parking on the public right-of-way which is not permitted. The

applicant has not demonstrated the responsibility and initiative that the live entertainment privilege requires in Arlington County, has violated at least one condition of approval, and it is likely there will be continuing conflicts with the neighboring residents over noise. Therefore, staff recommends the Board not renew the site plan amendment for live entertainment and dancing.

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.
- 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).
September 26, 2009	Renewed a site plan amendment (SP #255) for live entertainment and dancing (was Jacques' Café, now Tara Temple) subject to amended condition #1 and a review in six (6) months (March 2010).

Approved Conditions:

1. Live entertainment and dancing shall be limited to Thursdays from 5:00 p.m. to 12:00 midnight, 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.

