



## ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item  
Meeting of May 14, 2011**

**DATE:** May 11, 2011

**SUBJECT:** U-3297-11-1 USE PERMIT for a restaurant with live entertainment at the Westover Market located at 5841-5877 N. Washington Boulevard (RPC# 10-027-012 & -013).

**Applicant:**  
Westover Market

**By:**  
William B. Lawson, Jr.  
6045 Wilson Blvd., Suite 100  
Arlington, Virginia 22205

**C.M. RECOMMENDATION:**

Deny the request for a use permit for live entertainment associated with a restaurant.

**ISSUES:** The applicant is proposing a use permit for outdoor live entertainment in association with a restaurant at the Westover Market, located in the Westover Shopping Center. The applicant requests approval for live entertainment in the Market's outdoor café, popularly known as the "Beer Garden". The existence of the Beer Garden itself would not be affected by this decision, only whether live entertainment is permitted in that Beer Garden. Staff's practice has been to not permit outdoor live entertainment due to the negative effects such use would have on the surrounding area and land use conflicts. The proposed use is located in a low-density area in close proximity to single-family dwellings. Several immediate neighbors have raised concerns over the noise generated by past (and unapproved) live entertainment in the outdoor café Beer Garden. Approving the subject use would likely lead to future requests from restaurants and nightclubs throughout the County for outdoor live entertainment, including the increasingly popular rooftop bars, allowing more intense uses with substantial adverse effects on surrounding residential properties.

**SUMMARY:** The applicant, Westover Market, requests approval of live entertainment in the Market's outdoor café "Beer Garden". The sole issue before the Board is whether live

County Manager:

*BMD/GA*

County Attorney:

*CWM*

*GA*

Staff: Peter Schulz, DCPHD, Planning Division

PLA-5885

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entertainment can be added; whether the applicant can have the outdoor Beer Garden is not in question. The proposed hours are Wednesdays 7 p.m. to 9 p.m. and Fridays and Saturdays from 6 p.m. to 10 p.m. The proposed entertainment would occur between April 1 and October 31 of each year. Staff does not support the request for several reasons: The outdoor café's close proximity to single-family residences (residential back yards abut the shopping center parking lot), and the low-density and low-activity character of the Westover Shopping Center area and the "C-1" Zoning District in general; practical difficulties in the enforcement of live entertainment conditions and noise and capacity regulations which largely rely on self-enforcement, and the present applicant's past history of noncompliance with County ordinances and regulations. Furthermore, only once before has the County Board approved a request for outdoor live entertainment (SoBe in Clarendon, located in a "C-O" zoning district); that was termed an "experiment" and was approved only with the justification that the location was a high-density commercial area far away from residential uses. Therefore, staff recommends denial of the use permit request for a restaurant with live entertainment.

**BACKGROUND:** Currently, Westover Market has the appropriate approvals to operate a grocery store with six (6) indoor seats (to consume food made on the premises) and nine (9) seats in an outdoor café (the Beer Garden). In May 2010, the owner of the Westover market inquired whether he could have live entertainment. Ultimately, he was informed by staff that since it was not a restaurant, and only restaurants were eligible for live entertainment use permits in the "C-1" Zoning District, the Market was not eligible for such a use permit. Zoning enforcement complaints in June 2010 and again in August 2010 alerted the County to the fact that live entertainment was occurring on the premises. Zoning enforcement officials found that the applicant was having live entertainment without a use permit and had located 24 seats, which is more than the approved nine (9) seats in the outdoor cafe. The applicant was advised in writing (by Notice of Violation in late summer 2010), that the applicant was exceeding the permitted capacity and that live entertainment must cease until the proper approvals have been obtained. The applicant has appealed that NOV to the Board of Zoning Appeals. The applicant has requested, and the BZA has granted, deferral of the appeal case every month since then, while this application was under consideration.

The Westover Market is located at 5841-5877 N. Washington Boulevard in the Westover Shopping Center, and is described as follows:

Site: The "Beer Garden" or outdoor café is located in a paved area between the Westover Post Office branch and the Westover Market in the Westover Shopping Center. To the north is the shopping center parking lot (zoned partly "C-1" and partly "R-6") and the rear yards of single-family homes that are zoned "R-6". To the west is the Westover Library and Reed School Complex, zoned "S-3A". To the south, across Washington Boulevard, are one-story retail uses zoned "C-1" and garden apartments zoned "RA14-26". To the east are garden apartments zoned "RA14-26"

Zoning: The site is split-zoned "C-1" Local Commercial Districts and "R-6" One-Family Dwelling Districts.

Land Use: The site is designated on the General Land Use Plan (GLUP) as "Service

Commercial.” The back part of the shopping center’s parking lot is designated “Low Residential (1-10 du/acre).”

Neighborhood: The site is located within the Westover Village Civic Association. It is also adjacent to the Highland Park-Overlee Knolls Civic Association and near the Tara-Leeway Heights Civic Association. Staff has been in contact with the president of the Westover Village Civic Association. The Westover Civic Association voted to support the request for live entertainment, with the suggestion that a use permit condition be placed that noise must be monitored by the applicant, perhaps automatically. The other Civic Associations also support the use permit request.

**DISCUSSION:** The applicant, Westover Market, is requesting outdoor live entertainment in their outdoor café “Beer Garden” three (3) days a week, from April 1 to October 31 of every year. The Beer Garden will remain, the only question is whether live entertainment will be allowed. The proposed hours of operation are from 7 p.m. to 9 p.m. on Wednesdays, and from 6 p.m. to 10 p.m. on Fridays and Saturdays. Prior to applying for the use permit, the applicant had been holding live entertainment in the Beer Garden since at least last year. The live entertainment generally has taken the form of amplified rock bands, and the applicant proposes to provide similar entertainment in the future.

When it came to the County’s attention last year that live entertainment was being held at the Westover Market it was also discovered that the outdoor cafe exceeded the number of seats (and number of total people) that is permitted by the Certificate of Occupancy and associated capacity certificate (nine [9] seats were permitted, and the applicant was observed to have 24 seats). It was also explained to the applicant that in the “C-1” Zoning District, only a restaurant was eligible to apply for a use permit for live entertainment. Follow-up visits by Zoning Enforcement found that the applicant had not corrected the violations.

Although staff advised the applicant that the County had almost never approved live entertainment in an outdoor café before, the applicant stated their desire to, nonetheless, apply for outdoor live entertainment. County staff began working to assist the owners of the Westover Market to upgrade the physical facilities in order to meet building, fire, and Zoning codes; to expand the permitted number of seats in the beer garden; and to upgrade the grocery store to a “restaurant”, thus qualifying the Market to apply for a special exception for a restaurant with live entertainment. Staff repeatedly reinforced the point that no judgment was being made, and the applicant should not assume, that an outdoor live entertainment use permit would be granted; rather, staff advised the applicant that a recommendation from staff for approval was unlikely, and the staff’s efforts focused on assisting the applicant in creating an application which could at least allow the consideration of a live entertainment use permit by the County Board. A working group with representatives of various County agencies, the applicant, the applicant’s attorney and architect was formed to discuss solutions that could bring the Market into compliance with County codes and ordinances while achieving the Market’s goals. This group met four (4) times, to review the Market’s plans and give advice as to what revisions or alternatives might enable the Market to create a restaurant meeting all Code and Ordinance requirements. In addition, the County created a web page on the County website to serve as a clearinghouse of public information about the Westover Market’s efforts to upgrade their facilities, and their application

for live entertainment.

As a result of the collaborative effort, the applicant has an approved building permit to upgrade their facilities to meet the requirements for the existing and future expanded outdoor seating, and to convert a part of the premises to a restaurant that meets the appropriate local and state ordinances. Completion of all construction is estimated to not occur sooner than July. The number of seats that will ultimately be permitted in the Beer Garden will be determined at the time of the Certificate of Occupancy. The approved building plans showed only 24 seats and two (2) benches in the outdoor café area, and were approved by Zoning with a specific note written on the building plans limiting the number of seats (inclusive of benches) to 24, based on available parking. However, the applicant on Friday, May 6 submitted to staff new plans showing 89 outdoor seats, which is not consistent with their approved building permit.

In the outdoor café Beer Garden, the applicant may have radio and television broadcasting by-right, with no requirement for a special exception use permit, subject to the Arlington County Noise Ordinance. In addition, since the Beer Garden is a by-right outdoor cafe on private property, and is not located in a side or rear yard, the outdoor café Beer Garden may continue to operate at the same hours as the Market (but may not operate year round as an outdoor café is intended to be seasonal and not permanent).

Although staff recommends denial of the proposed outdoor live entertainment, the applicant has succeeded in accomplishing almost all of their goals to expand the outdoor seating area while complying with all ordinances. The applicant's ability to have radio, TV and "piped-in" music in the outdoor café should create the sort of family-friendly fun atmosphere that the applicant and the community desire.

Staff's recommendation of denial for outdoor live entertainment is based on the location of the proposed use, including the adverse impacts on neighboring residential properties, and the fact that outdoor live entertainment is not consistent with the County's adopted plans and policies for the low-intensity "C-1" zoned neighborhood-serving retail, the implications for similar requests in the future, current and past issues of compliance with County regulations, and the difficulty of enforcement of live entertainment conditions of approval, which largely rely on the business owners to self-regulate.

#### Location and Impact on Single-Family Residences

The outdoor café Beer Garden is located in a brick-paved area with trees, on private property in an area used as a pedestrian passage between the Westover Post Office and the Westover Market and between the market and the parking. The Beer Garden is fenced and has canopies. There is a portable outdoor bar that is used when the Beer Garden is open for business. The commercial buildings are one (1) story. Immediately behind the Beer Garden is the shopping center parking lot, the rear part of which is zoned "R-6". The parking lot was permitted by special exception use permit as a transitional use in 1956. Behind the parking lot are five (5) single-family detached homes.

The closest residential rear yard (1672 N. Longfellow St.) to the closest edge of the proposed

Beer Garden (which is also the same location where the bands will play) is about 110 feet. The position of the Beer Garden is such that the rear yard at 1672 N. Longfellow St. (is in a direct line of sight (and sound) from the Beer Garden.

In order to test the impacts of outdoor live entertainment, on April 15, 2011 the Westover Market held an advertised outdoor live performance by a four-piece band from 7 to 9 p.m. Conditions were clear and warm. The band was at the northern edge of the Beer Garden (closest to the houses), with the band members and their equipment pointed towards Washington Boulevard. The owners of the Westover Market had erected a wooden structure behind the performers with some padding in order to muffle the band's sound. Westover Market's counsel was testing the sound with a hand-held decibel meter. Staff observed the event, including the sound testing, and noted that even at times when the sound levels seemed to be technically in compliance with the noise ordinance, the music and lyrics were clearly audible from the property line of the nearest back yard. Staff also observed that the sounds of some instruments, such as drums, carried further than other types of sounds. From this test, the decibel level of entertainment provided by amplified musicians seemed to be difficult to control when there are varying combinations of musicians with varying styles of music, whereas it may be easier to control the decibel emissions from a radio or television.

To further understand possible noise impacts, on April 21 and 23 (Thursday and Saturday), 2011, staff took ambient noise readings at 3100 Clarendon Boulevard (the Olmstead Building) in Clarendon and at the Westover Shopping Center between 9 p.m. and midnight. Ambient readings in Westover were significantly lower than ambient readings taken as a comparison in the higher activity area of Clarendon. Ambient decibel readings in Clarendon ranged from the high 60s to low 70s, while ambient decibel readings in Westover were the upper 50s to low 60s. To put this in context, a decibel reading of 70 is ten (10) times louder than a decibel reading of 60 (a normal conversation between two people is around 60 db)<sup>1</sup>. Confirming what staff has observed visually, the immediate area around the Westover Shopping Center at nighttime is a quiet, uncongested area and so an inappropriate place for the holding outdoor live entertainment at night, as the effect of a band in a quieter area would be substantially greater.

#### Policy Issues Countywide; Consistency with Plans and Policies

The subject property is zoned "C-1", Local Commercial. The "C-1" District is a low-density commercial district, where buildings are limited to 35 feet in height (the same as single-family houses), floor area ratio is limited to 1.0 to 1, and ten percent of the total lot area must be landscaped open space. The Zoning Ordinance describes the "C-1" District as areas designated for "low intensity development where retail and personal services predominate... [and] which are compatible with the surrounding development in terms of scale and character".

Generally, "C-1" Zoning Districts, like this particular location, consist of single-story commercial buildings designed as "strip" development, and are located close to single-family residences. Many "C-1" shopping areas, like Westover, actually share the same block as single-family residences and residential zoning districts.

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<sup>1</sup> Source: <http://www.nidcd.nih.gov/health/hearing/ruler.asp> (National Institute on Deafness and Other Communications Disorders, National Institutes of Health).

The “C-1” District is the lowest-intensity zoning district where a “restaurant with live entertainment and/or dancing” is allowed (by special exception). There are only two (2) restaurants in the entire County located in a “C-1” Zoning District with approved live entertainment use permits (out of the 45 or so active live entertainment use permits and site plan amendments), one of which is on short reviews because of issues raised by nearby residents.<sup>2</sup>

General County practice has been to prohibit live entertainment outdoors due to the potential negative impacts on adjacent properties. One of the standard use permit conditions for live entertainment approvals is that the proposed live entertainment “shall not occur outdoors”, and that “windows and doors must be closed during the live entertainment”. There is only one instance where the County Board has approved outdoor live entertainment for a nightclub or restaurant. In July 2005, the County Board approved outdoor live entertainment for SoBe located at 3100 Clarendon Boulevard (the Olmstead Building), and the staff report justified recommending approval of outdoor live entertainment because the outdoor area was surrounded by the Olmstead Building on three (3) sides, and the fourth side faced Central Park and the three-story commercial buildings (and the prospect of future high-rise development) on the north side of Wilson Boulevard. The nearest single-family residences were 800 feet away, across at least two (2) streets and blocked by commercial development between. At that time and in that location, outdoor entertainment was seen as an “experiment”. Their site plan amendment permitting outdoor entertainment was last renewed in November 2010.

The Westover Market is located in a “C-1” District, which is a low-density and low-intensity commercial zoning district that is usually close to single-family residences. Approving outdoor live entertainment at this location would set a precedent for similar requests and pose a real threat to a quiet nearby neighborhood. In the immediate vicinity of the Westover Market, Lebanese Taverna (5900 Washington Blvd.) has a few outside tables in summer, and there are at least three (3) other restaurants that qualify to apply for a use permit for live entertainment: Lost Dog Café, Stray Cat, and the Forest Inn Bar & Grill. (None of the restaurants in the Westover area currently have use permits for live entertainment).

Lack of compliance with County regulations and difficulty of enforcement of Live Entertainment conditions.

Unlike many other site plan or use permit conditions of approval, conditions placed on live entertainment uses generally rely on applicants policing themselves, or occasional special inspections by staff, because live entertainment generally takes place after County hours of business. In cases where the applicant is unwilling or unable to police his own use, it falls to neighborhood residents to monitor the use and complain to the County if needed. County follow-up to noise complaints generally take place several business days after a complaint is made to Code Enforcement or Zoning staff, or at pre-arranged times for special inspections after County business hours. County staff and the Police receive several complaints per month regarding noise from indoor live entertainment disturbing nearby businesses or residents that require County staff

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<sup>2</sup> They are: Pike Pizza, 4111 Columbia Pike, U-2973-99-1; and El Manantial, 2618 N. Pershing Dr., U-3205-08-1.

and resources to inspect and resolve. In the case of possible outdoor live entertainment, it is probable that the likelihood of noise disturbance to, and resulting noise complaints from, neighboring properties is greater than an indoor live entertainment use, and subsequently greater than usual amount of County staff and resources needed to resolve noise complaints and enforce conditions of approval.

Furthermore, the applicant has had a history of noncompliance with County ordinances and regulations. The applicant continued having outdoor live entertainment at least through August of 2010, even after having been informed by County staff in May 2010 that live entertainment was not allowed without a use permit. The applicant's Certificate of Occupancy and capacity certificate states there shall be no more than nine (9) seats in the outdoor café area. Staff has observed the Market violate of the Certificate of Occupancy and capacity certificate. Staff observed more than nine (9) seats twice in August 2010. In addition, many more than nine people have been observed at the Beer Garden on several occasions. . The applicant was issued a formal Notice of Violation (NOV) by Zoning immediately after the incidents in August of 2010. The applicant has appealed that NOV to the Board of Zoning Appeals. The applicant has requested, and the BZA has granted, deferral of the appeal case every month since then, while this application was under consideration.

The applicant has received approval of a building permit to make renovations to restrooms and other upgrades required by the Building Code and Americans with Disabilities Act to expand the maximum capacity. The applicant has initiated construction as of the last week of April 2011, under the approved building permit. However, any expansion of capacity in the outdoor café Beer Garden would depend on the final Certificate of Occupancy and associated Capacity Certificate. It should be noted that the capacity and the potential for large numbers of people in the outdoor cafe Beer Garden in excess of the Certificate of Occupancy and Capacity Certificate has been an issue of concern for the neighboring residents.

**CONCLUSION:** Staff understands that the outdoor café Beer Garden is a community asset. The existence of the Beer Garden is not in question here; the sole issue is whether live entertainment should be allowed. The Beer Garden is obviously very popular with the larger community and has been characterized as one of the things that make Arlington special. The applicant is permitted the Beer Garden by-right, subject to the limitations of the Certificate of Occupancy and capacity certificate. As long as the tables, chairs, and outdoor bar are movable and do not become permanent fixtures, the Beer Garden may continue to serve their patrons seasonally, during the hours the Westover Market is open. Like many outdoor cafes in Arlington, the applicant may have radio, "piped-in" music, and outdoor televisions (as long as the TVs do not constitute signs) by-right. The Noise Control Ordinance will still apply, and sound from radio or television should be easier to control than the variable sound live music may make. Staff encourages the applicant to work closely with the surrounding neighbors to make the outdoor café Beer Garden an asset and not a burden on neighboring property owners. Staff has worked and will continue to work closely with the applicant to enable him to upgrade his facilities in order to permit more tables (and thus more occupancy) for the outdoor café Beer Garden. However, due to the location in close proximity to residences, the character of the neighborhood and the nature of the "C-1" Zoning District; and the practical difficulties presented in enforcing noise and crowd control associated with live music, staff can not recommend allowing outdoor live

entertainment at this location. Staff believes that the proposed use permit for live entertainment would be detrimental to the public welfare or injurious to property or improvements in the neighborhood; and would conflict with the purposes of the master plans of the County, which call for a quiet, neighborhood serving commercial area. Therefore, staff recommends denial of the requested use permit for live entertainment associated with a restaurant.

PREVIOUS COUNTY BOARD ACTIONS:

- June 23, 1956                      Approved use permit (U-1222-56-1) for a parking lot as a transitional use, subject to conditions.
- September 14, 1957                Amended use permit (U-1222-56-1) for a parking lot as a transitional use to eliminate the requirement for fencing in a portion of the rear yard, at the discretion of the Zoning Administrator.
- June 7, 1958                        Adopted a master plan for the Westover Shopping Area.
- June 13, 1992                      Approved a use permit (U-2741-92-1) for construction and operation of a United States Post Office and associated parking, subject to conditions and a review one year after issuance of the certificate of occupancy.
- June 5, 1993                        Renewed a use permit (U-2741-92-1) for construction and operation of a United States Post Office and associated parking, subject to all previous conditions and a review one year after issuance of the certificate of occupancy.

**STATEMENT OF SUPPORT**

Westover Market's Beer Garden has been an excellent addition to the Westover area, Arlington, and Northern Virginia. It has added a wholesome vibrancy that has been well received and appreciated. The Beer Garden is family friendly, and enjoyed by people of all ages. It has quickly become a targeted destination for people looking for a comfortable, friendly, and laid back environment with great beer, food, and music. This in turn has unveiled a new found liveliness to the community, which had been lacking for quite some time. This appreciation is enjoyed by the businesses of the area, the citizens of the area, and especially the property owners of the area.

Westover Beer Garden's schedule is as followed:

Wednesday --- 7pm — 9pm Open Mic Nite  
Friday & Saturday 6pm — 10pm Live local music

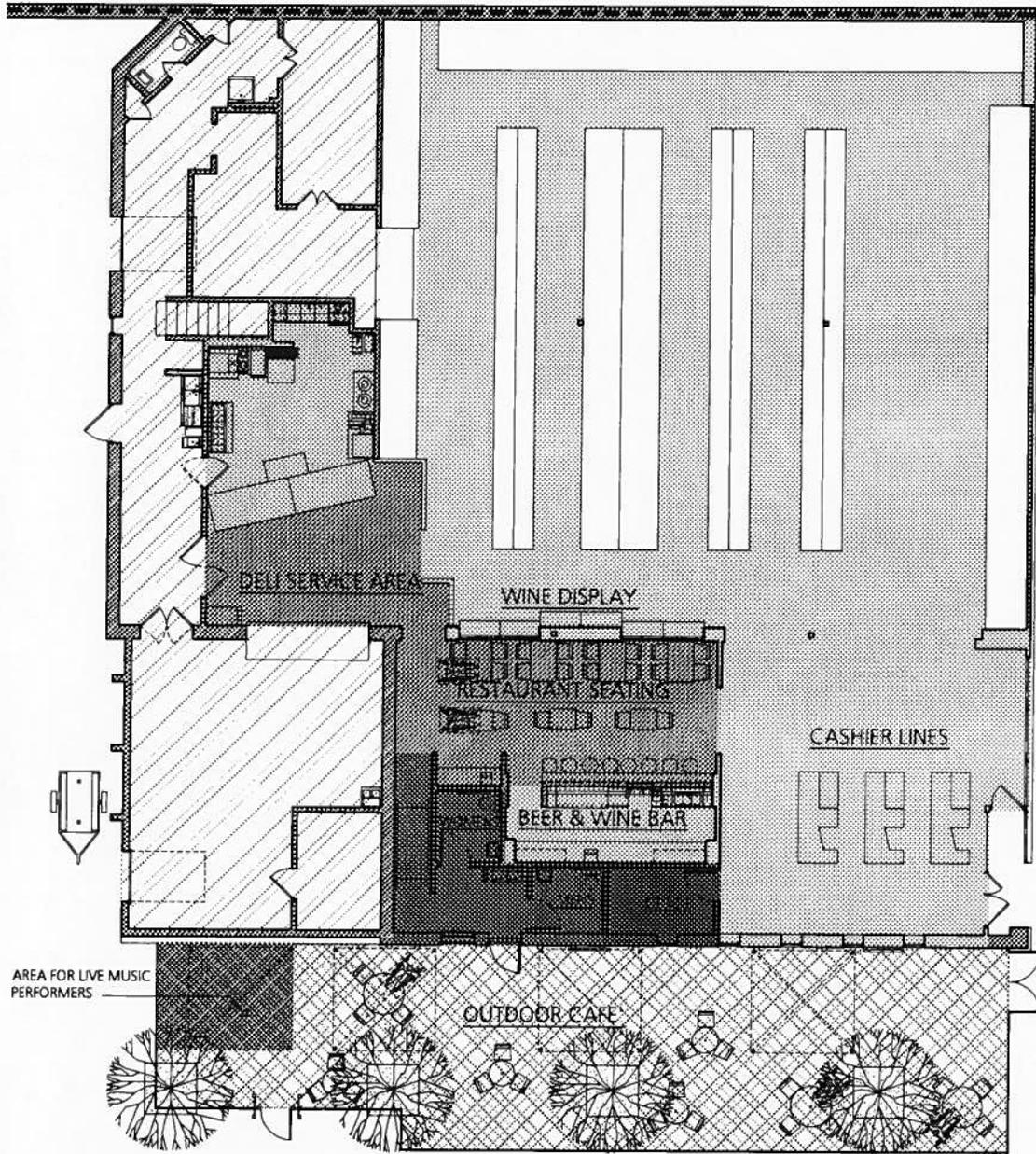
The live entertainment will occur outside in the beer garden. This activity will take place from April 1 of each year through October 31 of each year. There will not be dancing. The maximum capacity of the beer garden will be 96 persons. There will be 2 employees scheduled to support the live entertainment. The maximum number of employees serving the beer garden/market at any one time will be 7 persons.

There will be a P.A. system, and guitar and base amps. The maximum dB(A) will be determined in consultation with the community and staff. The speakers will be placed at the rear of the beer garden facing Washington Boulevard. The live performance will take place in the rear of the beer garden adjacent to the market. The applicant has made several presentations of this proposal to the Westover Civic Association.

WBL/M0123.5775

# CAFE' at WESTOVER

DATE: 03.14.2011



AREA FOR LIVE MUSIC PERFORMERS

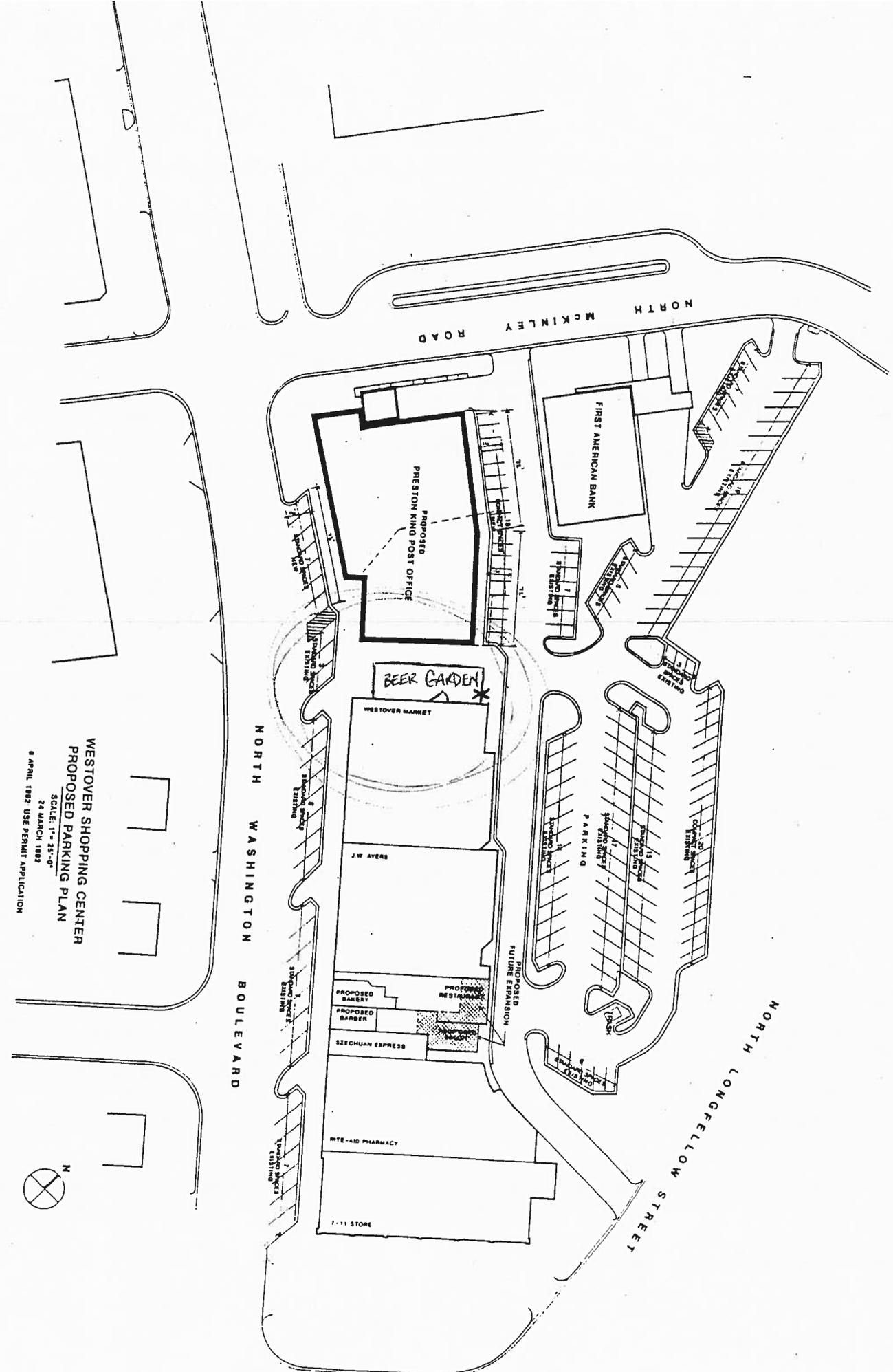
- |  |                                  |  |                                      |  |                             |
|--|----------------------------------|--|--------------------------------------|--|-----------------------------|
|  | MERCHANILE<br>- GRADE FLOOR AREA |  | INTERIOR DINING                      |  | KITCHEN AND FOOD PREP AREAS |
|  | MERCANTILE<br>- STORAGE / STOCK  |  | EXTERIOR SEATING<br>(ASSEMBLY A2)    |  | PERFORMANCE AREA            |
|  | BUSINESS<br>- OFFICE             |  | SUPPORT AREA<br>- TOILETS / CORRIDOR |  |                             |

## CONCEPT PLAN

1/16" = 1'-0"

M...t R I.





WESTOVER SHOPPING CENTER  
 PROPOSED PARKING PLAN  
 SCALE: 1" = 25'-0"  
 24 MARCH 1982  
 4 APRIL 1982 USE PERMIT APPLICATION





**Peter Schulz**

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**From:** Lucia Davidson [luciadavidson@verizon.net]  
**Sent:** Wednesday, April 20, 2011 2:08 PM  
**To:** Peter Schulz  
**Subject:** Westover Beer Garden - Neighbor comments

Dear Mr. Schulz,

My name is Lucia Davidson and I live on N. Longfellow Street - I am one of the three houses on that street that back directly onto the Westover parking lot. Kitty McCall suggested that I forward my thoughts, which I had expressed in an earlier e-mail exchange, to you. please see them below. My main concerns are:

- 1) the music
- 2) the appearance
- 3) long term impact on property values
- 4) Enforcement of whatever license is granted for the Beer Garden. Since Devin has gone ahead and operated the beer garden with live music, large numbers of people in the area, and a beer tap outside in violation of his current permit and what is allowed in Arlington, I am wondering how much he can be relied upon to operate within whatever limits the county sets. How will the county ensure that he does comply?

Sincerely,

Lucia Davidson  
 1672 N. Longfellow Street

Begin forwarded message:

**From:** Lucia Davidson <luciadavidson@verizon.net>  
**Date:** March 7, 2011 8:38:28 PM EST  
**To:** "Kevin Noyes" <knoyes@BusinessBankva.com>  
**Cc:** <GHeilizer@solomonhess.com>, "Taimi McCall" <taimimccall@msn.com>, "Anne Melly" <amelly@verizon.net>, <blakecp@comcast.net>, <lchristiansen@kaiserassociates.com>, <sproudlove@verizon.net>, <kris.hanneman@verizon.net>, <brian\_kmiller@yahoo.com>, <weehame@earthlink.net>, "Tad McCall" <mccall\_tad@bah.com>  
**Subject: Re: Westover Community Forum March 8 Regarding the Westover Beer Garden**

Kitty,

Thank you for taking on the effort to keep the neighborhood informed on this issue and polling us on our feelings regarding the Westover Beer Garden. Unfortunately, as I had mentioned to you. I won't be able to attend the meeting tomorrow night. I hear what Kevin is saying and understand that the Beer Garden has been an enjoyable experience for many

in the Westover area. However, I think that the notion that the effect of the Beer Garden is ameliorated by the fact that it is "seasonal" is a bit misleading. The "season" for the beer garden is likely to be April to November, at a minimum. And while I, personally, am not so affected - being a lone occupant of my house, I would definitely feel differently if I had a family with children to consider. And I do wonder what effect the establishment of the beer garden as a fixture in the neighborhood might have on the property value of those houses which, like mine, back directly onto the Westover parking lot. If the beer garden were to be allowed, and I have a certain amount of sympathy for those who would like to see the project go forward, I think there would need to be fairly strict conditions placed on the permit. Sound abatement would definitely be primary. Also, during the school year outdoor live music should not be allowed on "school nights" and during the summer, when school is out, I would suggest only one weeknight (weeknights being Sunday through Thursday) should be allowed. Kevin thinks 10:00 is not late, and maybe it is not, but for people with young families, or who get up early to go to work, it can in fact be late. I think 10:00 should be the absolute latest the music should be allowed to be played on any night.

Another concern I have is the appearance of the outdoor portion of the beer garden. If the project is to go forward, I would expect that much more attention be paid to keeping the area cleaned up. This has not been the case previously. I have noted frequently that trash and debris has been still there the morning after an event in the evening. This is unsightly and not really what I think residents and, indeed, the other merchants in Westover want to see on a routine basis.

Anyway, I just wanted to reiterate my thoughts so that they might be included in tomorrow night's discussion.

On Mar 7, 2011, at 10:44 AM, Kevin Noyes wrote:

Hi Kitty,

As I mentioned earlier, I think it's a great idea. It's obviously only seasonal and it brings people and neighbors together. I have seen several families there enjoying themselves and 10:00pm is not late at all. It will require flexibility on everyone's part and as a lifelong resident of Westover, they never did this when I was a kid and it's a great way for people to get outside and enjoy the great weather and to meet their neighbors.

Thanks  
Kevin

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**From:** Gino Heilizer [mailto:gheilizer@solomonhess.com]  
**Sent:** Monday, March 07, 2011 10:33 AM  
**To:** 'Taimi McCall'; 'Anne Melly'; Kevin Noyes; [blakecp@comcast.net](mailto:blakecp@comcast.net); [lchristiansen@kaiserassociates.com](mailto:lchristiansen@kaiserassociates.com); [sproudlove@verizon.net](mailto:sproudlove@verizon.net); [kris.hanneman@verizon.net](mailto:kris.hanneman@verizon.net); [brian\\_kmiller@yahoo.com](mailto:brian_kmiller@yahoo.com); [weehame@earthlink.net](mailto:weehame@earthlink.net); [luciadavidson@verizon.net](mailto:luciadavidson@verizon.net); 'Tad McCall'  
**Subject:** RE: Westover Community Forum March 8 Regarding the Westover Beer Garden

Kitty

As I mentioned yesterday, we live at 5840 18<sup>th</sup> Street (right next to the Wachovia branch). We have 3 young kids, ages 2,5,7 who go the bed around 7 pm. Even the adults in our house go to bed before 10 pm. We have found the Beer Garden people extremely difficult to work with and not a very good neighbor. It would be our inclination to fight, fight, fight rather than have the music played outside at all. To put it mildly, they have used up whatever goodwill they had initially. We will be there on Tuesday night to discuss.

Thanks

Gino Heilizer

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**From:** Taimi McCall [mailto:taimimccall@msn.com]

**Sent:** Monday, March 07, 2011 8:26 AM

**To:** Anne

Melly; [knoyes@businessbankva.com](mailto:knoyes@businessbankva.com); [blakecp@comcast.net](mailto:blakecp@comcast.net); [lchristiansen@kaiserassociates.com](mailto:lchristiansen@kaiserassociates.com); [sproudlove@verizon.net](mailto:sproudlove@verizon.net); [kris.hanneman@verizon.net](mailto:kris.hanneman@verizon.net); [brian\\_kmiller@yahoo.com](mailto:brian_kmiller@yahoo.com); [gheilizer@solomonhess.com](mailto:gheilizer@solomonhess.com); [weehame@earthlink.net](mailto:weehame@earthlink.net); [luciadavidson@verizon.net](mailto:luciadavidson@verizon.net); Tad McCall

**Subject:** FW: Westover Community Forum March 8 Regarding the Westover Beer Garden

Hi All,

Some of you already got this directly but some didn't so I'm sending it out to all. This reminder was sent out yesterday afternoon by the Westover Civic Association president. Please come to express your opinions about outdoor live entertainment, whether you agree with the potential "rules" listed below or not. Those are Bob's preliminary ideas to get people thinking. It is very important that we, as the only directly adjacent neighbors, put our views out at this meeting. We will literally have to live with whatever is in the permit (if issued) and this is the first step for us to have input into proposed permit requirements. I know that some Longfellow/18th Street families are willing to live with limited outdoor live entertainment while some families do not want it at all, so please come and participate in the discussion so that your individual concerns and ideas are heard.

Thank you all for the time you have already spent talking with me about the Beer Garden.

Kitty Taimi McCall

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Date: Sun, 6 Mar 2011 15:21:20 -0800

From: [wvcapres@yahoo.com](mailto:wvcapres@yahoo.com)

Subject: Westover Community Forum March 8

To: [wvcapres@yahoo.com](mailto:wvcapres@yahoo.com)

Dear Westover Residents,

This is a reminder that there will be a community forum on the Westover Beer Garden on Tuesday night March 8 at 7 pm in the Westover Library.

The agenda will be a presentation of plans for developing the Westover

Market and beer garden, an opportunity for all members of the community to express their opinion and an effort to draw up a set of rules that make it possible to satisfy all parties. These could include:

- Stopping the music at 10pm on weekends and earlier on weeknights
- Cleaning up any trash each evening
- No percussion
- Etc...

The idea is to manage the site so that it continues to function as a community gathering spot while allowing the immediate neighbors to enjoy their homes. Addressing these issues within our community will allow the market to obtain the necessary permits to operate within the boundaries of applicable laws while also ensuring that each neighbor is treated with respect.

Bob Orttung  
WVCA President

**Peter Schulz**

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**From:** Tad McCall [tad.mccall@gmail.com]  
**Sent:** Wednesday, April 06, 2011 12:15 PM  
**To:** Peter Schulz  
**Subject:** Comments of the permit application for the Westover Beer Garden

Peter,

I am a neighbor of the proposed Beer Garden (full disclosure—Kathleen Taimi's husband, but these are exclusively my views). I understand that the permit for the Westover Market Beer Garden seeks a capacity of 96 persons. I believe that is an excessive number of persons. The space for the Beer Garden is not that large, about a good sized living room. I cannot envision 96 people fitting into the enclosure, especially if musicians, instruments, and possible sound equipment is present. 30 persons would seem to be quite a crowd in the enclosure. I am not proposing that number because I do not know the fire code requirements and how they apply to the occupancy. I am just trying to give you an idea of the disproportionate size of the occupancy being sought.

Where will the 96 people go? They, by necessity, will overflow into the common areas adjacent to the Post Office and onto the sidewalks. Will they be carrying beer? How will the Beer Garden keep them from carrying beer? I cite this one example of beer carrying party-goers spilling over into the common areas and sidewalks around the market as one unpleasant possibility.

In addition to the occupancy issue, there is the more well known noise issue. The Beer Garden has not been a good neighbor. The proprietor has played fast and loose with common understandings (there being no permit) to extend hours and elevate noise at the Beer Garden.

I am not opposed to my neighbors going to the Beer Garden, or there being music there. I am concerned by what the previous track record of the proprietor tells us about the future: He will play fast and loose to stretch the limits of decorum and restraint beyond the physical confines of his enclosed space, and he will test the time and noise limits of the permit. That is what he did prior to the permit. If the permit limits are too generous, he will simply have more latitude to breach faith with his neighbors. Make no doubt about it, this person has acted in bad faith.

My final comment on the permit application concerns the practicality of enforcement. Do we expect the police to be counting customers or going around carrying noise measuring monitors? Of course not. That is a poor use of police resources and impractical. That means that the neighbors will be forced to be the enforcement mechanism. I frankly do not believe this is the best means of enforcing the the rules in Arlington. However, granting any permit, may lead to that result.

In conclusion, I oppose the occupancy limits as too high. I further believe the permit should be denied. Granting the permit is unwise based on the prior behavior of the applicant and the practical need of the neighbors to take enforcement into their hands.

Thank you for considering my comments,

04/26/2011

Thomas McCall  
1675 North Longfellow Street  
Arlington VA. 22205-2835  
703-639-7352

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*Tad McCall*

**Peter Schulz**

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**From:** Gino Heilizer [ginoheilizer@yahoo.com]  
**Sent:** Tuesday, April 05, 2011 4:05 PM  
**To:** Peter Schulz  
**Subject:** Beer Garden Application - RESEND

Peter

It was good talking with you yesterday. As I mentioned when we talked, we are very much opposed to giving the Beer Garden the legal authority to play music outside. I live within a stone's throw of the "venue" as it abuts my back yard. My household consists of a 3, 5, and 7 year old who all go to sleep by 7 or 8 pm every night of the week. That is, unless the Beer Garden is playing music, at which point they are often unable to sleep due to the noise. After a full year of asking the owners of the Beer Garden to turn the music down, to no avail, we are frankly amazed that their application is being seriously considered given their long track record of ignoring the neighborhood's requests for cooperation. While many people seem to enjoy the Beer Garden for a variety of reasons, a suitable compromise is **not** to ask my kids to stay awake way past a suitable bedtime for young child so they can play music outside. We moved into our house because it was across the street from a park and a library, not so that we could live next to frat house type atmosphere – which is what the Beer Garden becomes later in the evening. That is simply not acceptable.

Therefore, as you do your analysis, please be aware that many of us do not want the Beer Garden to be playing music past 7 pm as we have kids to put to sleep.

Anthony Heilizer

04/26/2011

## Peter Schulz

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**From:** Madeline Jervis [weehame@earthlink.net]  
**Sent:** Tuesday, April 05, 2011 3:22 PM  
**To:** Peter Schulz  
**Subject:** Westover Market Beer Garden

Dear Mr. Schulz,

I was dismayed to read about the new application for Live Entertainment at the Westover Beer Garden. I am one of several homeowners who are adjacent to the Westover Shopping Center, who have been annoyed by the loud (un-permitted) music and accompanying crowds over the past years. It appears that the several meetings held by the Westover Village Civic Association with the Beer Garden manager have made no impression. This is a continuation of the disregard of my own personal visits to the Beer Garden and the complaints of others, to request that the volume of the sound system be reduced, and the music stop by 10:00 PM.

I hope that you, and other county employees who may be involved in this permitting process will have an opportunity to visit the space proposed for this Beer Garden, so you can see how small it is... pinched in a passageway between two masonry buildings, and how the amplified sound might billow out of both ends of the space into the residential areas immediately surrounding the shopping center. The space allocated for the Beer Garden is small enough that amplification should not be necessary for those attending to hear the music. The experience of the neighborhood is that when the amplified music is playing it is clearly audible to the neighbors, inside their houses, with the windows closed, and the AC on. Because of the geography of the immediate vicinity of the Shopping Center, the sound reaches even across the playing fields of the Walter Reed school grounds, as well as across Washington Blvd.

Supporters of the Beer Garden concerts promote its popularity with young families, and it is true that there are usually many small children present there. This is a good reason to restrict the times of the performances, if they are to be allowed, to end at 9:00 PM. Supporters of the concerts also speak of the community building effects of having this popular venue in our neighborhood. Most of the people I have spoken to understand these positive effects. They do not object in principle to the idea of live music or of a Beer Garden. What we object to is losing the ability to enjoy the peace and quiet of our own homes, back yards, and porches in the process.

Having a strict limit on the decibels allowed is important for the neighborhood. This should be arranged so that the Beer Garden is responsible for keeping their entertainments, if permitted, within the allowed limits of sound volume. The neighborhood should not be responsible for policing the amount of sound at any given concert, and we should not have to be calling the police or code enforcement every week.

Please understand that our objections are based on at least a year of problems with the Beer Garden and its concerts. We were led to believe that the Beer Garden (now much enlarged from its beginnings) and the live music had legal county permits to operate. Our complaints about music volume, crowds of people, and littering have been met with cavalier indifference and sometimes outright rudeness. The police seemed powerless to assist us. It was this situation that led us to call Code Enforcement, to discover that there were no permits, and the beginning of the process that has led to this application. We have no reason to believe that things will improve under the new permit, especially with the expanded limits of seating, and the designated allowed amplification.

Thank you for your careful attention to all the issues of this application.

Rev. Madeline Jervis, HR  
weehame@earthlink.net

## Peter Schulz

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**From:** Karen Jackson [karensjackson@yahoo.com]  
**Sent:** Monday, April 04, 2011 6:30 PM  
**To:** Peter Schulz  
**Subject:** Westover Market Live Music Permit

I am writing in response to an update posted about this situation via Arlington County's Facebook page.

I am in favor of granting the permit. I believe the county can't have too many live music venues. The Beer Garden is a charming and actually quite family-friendly location.

Karen Jackson  
Arlington resident for over 29 years

**Peter Schulz**

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**From:** Kevin Noyes [knoyes@BusinessBankva.com]

**Sent:** Monday, April 04, 2011 3:29 PM

**To:** Peter Schulz

**Subject:** Westover beer garden

Hi Peter,

I have lived behind Westover my entire life and I think the recent proposal for the hours is perfect. I think it's a great idea so long the area is kept clean.

Thanks

Kevin

Kevin H. Noyes  
Client Service Manager  
The Business Bank  
Ballston Office  
703-224-2424  
703-224-2425-Fax

04/26/2011

**Peter Schulz**

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**From:** william johnson [cpekjohnson@msn.com]  
**Sent:** Monday, April 04, 2011 1:12 PM  
**To:** Peter Schulz  
**Subject:** Support Westover Mkt. Live Entertainment

Hello - I've looked at the April 1 on-line update on the status of the Live Entertainment, Our family, including 2 college age girls think that the outdoor beer garden and live entertainment is an asset to the neighborhood - for the broad reasons that we've heard other neighbors express at local meetings. We recommend a favorable recommendation to the board on live entertainment, with reasonable limitations and periodic permit reviews consistent with the market's application.

We live a couple blocks away, in 19th Street, behind Reed School. I have been involved with the planning for the post office and the school/library as a member of our civic association and are aware of the parking concern issues and subscribe to the school of thought that this is an expected reflection of our urban community. The sight of folks walking and excitedly talking on the way to the market and restaurants is actually a contribution to the area. I'm aware that the communication between the market folks and neighbors expressing concerns about noise has not gone well. I write that off to the market spokesman being young and an idea-person and unsophisticated in dealing with the public. I consider that fixable. From the little I'm aware about sound measurement, I'm not sure that the idea of dBA can be objective or effective, so good luck. We hope that the soundproofing at the entertainment end will sufficiently address the problem in an easy subjective way.

Thanks

Johnson Family  
5831 N. 19th Street  
22205

## Peter Schulz

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**From:** Josh Brittain [joshbrittain01@gmail.com]  
**Sent:** Friday, April 01, 2011 8:07 PM  
**To:** Peter Schulz  
**Subject:** Westover Market Cafe/Beer Garden

Mr Schulz-

I will be travelling for work on May 14th, when the public hearing is scheduled to discuss the expansion of the Westover Market Beer Garden, but wanted to send you a short note to lend my support to the market.

I am a Westover resident; my family lives about two blocks from the store. We frequently go to the beer garden to have bbq and enjoy the fire while watching a game on their TVs. My kindergartner likes being able to run into friends from his school, and my wife and I like being able to walk to a nearby place in the community. On several occasions, we have invited friends into the neighborhood to meet for dinner and a beer. My wife and I strongly support allowing the market to expand to include live music and a larger seating area. I understand there are several requirements that still must be met, but hope that the county and the market can continue to work together to find a solution.

thanks,  
Josh Brittain

**Peter Schulz**

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**From:** Don Corrigan [don.corrigan@gmail.com]  
**Sent:** Wednesday, April 13, 2011 3:55 PM  
**To:** Peter Schulz  
**Subject:** Westover Beer Garden Neighbor

Dear Mr. Schultz,

Kitty McCall passed along your info and urged me to give you my perspective on the Beer Garden's application for live music. I've been the tenant at 1670. N. Longfellow for the last 3 years and, as such, have had a front row seat for the changes at Beer Garden.

Let me start by saying that I love both beer and live music, and have been a patron of the Beer Graden, so I have no axe to grind. But I'm also one of the closest houses, so I've seen it from the other side of the fence, too.

Overall, I'm concerned that the measures being taken to dampen the sound of the live music will prove insufficient. Thinking back to how loud and intrusive the music was all last summer, I just don't see how they can prevent it from interrupting the neighbors. I could throw a baseball from the back of my house and hit the drummer (and I don't even have a good arm), so it wouldn't surprise you to know that the music made it impossible to enjoy a movie in my own living room and often kept my now 9 year old son up late. It was bad. And I'd be shocked if a small sound barrier fixed it.

To be clear, the sounds of people talking, etc. was never a problem, but the live music was always disruptive. I recall saying to my fiancé once, "Hey, with just one guy and an acoustic guitar, that's almost tolerable." But most the time we dreaded coming home from errands on a Saturday to find our peace and quiet spoiled from afternoon to night. Forget about sitting out on the porch or leaving the screen door open. It was like sitting back stage at a rock concert.

While I do think the Garden is a neighborhood asset, I just don't see the need for live music to make it a success. I've been over to watch world cup games, chat with neighbors and enjoy a beer, all with no live music. My hope would be that the county tries to accomodate the owners's ability to make their business viable, but without caving into the notion that live music is a must. Live music would definitely create an inescapable nuisance for the neighbors.

If you'd like to discuss my comments or ask me any questions, please feel free to email me back or call me at 571-235-6718.

Thank you for your consideration,  
Don

**Peter Schulz**

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**From:** Gino Heilizer [ginoheilizer@yahoo.com]  
**Sent:** Monday, April 25, 2011 12:55 PM  
**To:** Peter Schulz  
**Cc:** wvcapres@yahoo.com  
**Subject:** Beer Garden Meeting - Tuesday Night Meeting  
**Attachments:** proposed conditions.pdf

Peter

I am not going to be able to attend the meeting tomorrow night as I will be on business travel. However I wanted to let you know that the proposed "compromise" that I have heard from the Westover Village Civic Association that the music stop at 10 pm is not something that we find appropriate. We have three kids ages 3,5,7 who go to bed around 7 pm. When the music plays they have trouble sleeping.

The "proposed conditions" memo that the President of the Civic Association circulated already assumes the music should start at 7 pm. (Please see the attached memo.) Why is that? I am unclear how having music start at the hour my kids go to sleep is a compromise. I think you will quickly see is that finding a compromise that makes sense to those of us who are most effected by this music is not attainable. In effect, this supposed compromise is a mandate by my Civic Association that I should relocate where I live. That is not a compromise.

Again, I am unhappy that I cannot be there in person to voice this concern, but I thought that I should let you know directly that I do not feel the supposed compromise floated by the President of the Civic Association represents those most effected by the music.

Regards,

Anthony Heilizer

04/26/2011

**Peter Schulz**

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**From:** Taimi Mccall [taimimccall@msn.com]  
**Sent:** Tuesday, April 12, 2011 12:21 PM  
**To:** Peter Schulz  
**Subject:** Westover Beer Garden Permit Application Comments

Hi Peter,

Thanks for talking with me about the Beer Garden permit application. I want to give you my comments in writing for your deliberations about the permit application.

(1) The 1600 block of North Longfellow Street parallels the relatively narrow back parking lot of the Westover Shopping Center. The outdoor Beer Garden is situated adjacent to this parking lot. In all, there are 12 houses along this block and two houses on N. 18th Street that are directly affected by the activities and noise at the Beer Garden. Of the 14 houses, five houses have backyards that border the parking lot. The measured distance from the rear of the Beer Garden (where the live entertainment is to be set up) to the closest resident's property is only about 112 feet. There are 13 preschool or elementary school age children in these affected residences, as well as one middle schooler and one 9th grader. Music from the Beer Garden should be limited to afternoon or very early evening hours to allow the families with young children, as well as those who rise early in the morning for work, to maintain their routine family bedtimes. Some in these houses are also concerned about diminished property value if live entertainment is allowed, resulting in constant noise just behind the bordering residences.

(2) The number of days when live entertainment is permitted should be limited. The application to have live entertainment on Wednesday, Friday and Saturday nights for seven months of the year is very disturbing. For us in the 14 houses, this would be as if a close neighbor had an outdoor party of 20 - 30 people with live music every Wednesday, Friday and Saturday nights from April through October. Right now, we live in the usual quiet Arlington residential neighborhood where neighbors respect neighbors and evening outdoor get-togethers are usually quiet affairs in order not to disturb each other. If the Beer Garden were to be permitted to have live music three nights a week, this would markedly alter our quiet neighborhood atmosphere.

(3) A public address system and amplification should not be allowed at the Beer Garden. The Garden is supposed to have only 24 seats outside and the fenced space is small. The suggestion that 96 people would be in the Beer Garden at one time is ludicrous. All the sounds from live entertainment and patrons of the Beer Garden go out backwards towards the houses and out front towards Washington Blvd because there are buildings on both sides of the Beer Garden. Because the behind neighbors are so close, the Beer Garden should be required at all times to reduce any noise levels, rather than be allowed to amplify the noise levels. The types of live entertainment allowed might help. For example, quiet acoustic music (maybe a guitarist or two) of the purpose to be a nice background to patrons conversations might be acceptable. What would be inappropriate is loud music or bands designed to be a type of show or as an advertisement to draw patrons to the Beer Garden.

(3) During last spring and summer, we endured many months of loud and late music which was often amplified. There was an illegal outdoor bar and late week night and weekend rowdiness and yelling. Repeated efforts by neighbors to have the owner and the Arlington police control these problems were mostly ignored. Yet, the live entertainment permit application by the Beer Garden describes the facility as "family friendly." From our experience, this is an incomplete and misleading characterization. Yes, in the afternoon or early evening, there were at times, a good number of families who came to the Beer Garden with their children and during these times, it could be described as "family friendly". However, later in the evening and night, the facility often seemed just an illegal outdoor bar with unpermitted loud live entertainment. Concerns were also raised last year about trash and garbage left at and around the Beer Garden overnight. The Beer Garden area was often not cleaned up until after the morning opening of the Westover Market.

04/26/2011

(4) I also want to bring up the difficulty in enforcing the Noise Ordinance or any other restrictions which may be put in the permit. The live entertainment is requested only for times when Code Enforcement will be closed. Our experience with the Beer Garden and the Arlington police last year demonstrated that the police are not a dependable enforcement method. Further, the Beer Garden manager was repeatedly rude to neighbors and repeatedly ignored requests to lower the noise levels. Given this track record, how can we be assured that if a permit is issued, the occupancy limits, the noise limits and the permitted days and hours of operation will be effectively enforced within a reasonable time frame? In fact, right now, the Beer Garden has expanded to serve patrons at 4 large and 5 smaller tables. Even some of the small tables have 4 chairs around them so it appears that the Beer Garden already has added up to 36 seats when it is supposed to have only 24 seats, after renovations are completed. I am not aware that the Beer Garden has been granted its Certificate of Occupancy for the expansion from 9 up to 24 seats, but yet the County is allowing the Beer Garden to continue to operate without any regard for current requirements.

(5) The County Board should consider whether it wants to set a precedent of permitting outdoor live entertainment at a facility that is located so immediately adjacent (within about 112 feet) to residents. Although there is a level of enthusiasm among some residents for live outdoor entertainment, the Beer Garden location may not be an appropriate site for this type of activity. Further, it is not designed well to control noise from live entertainment. Alternatively, the Board could consider initiating an effort to establish an appropriately designed location for outdoor live entertainment at a more suitable location that is not so directly adjacent to a residential neighborhood.

The outcome of this issue is very important to me and my neighbors because it will directly affect the quality of life in our neighborhood. Thank you very much for considering these comments. If you have any questions, please call me at 703-532-7747.  
Thank you very much.

Kitty Taimi  
1675 N. Longfellow Street

Date: Wed, 4 May 2011 20:57:14 -0700  
From: wvcapres@yahoo.com  
Subject: Letter to board on beer garden  
To: wvcapres@yahoo.com

Dear Westover Residents,

Here is the letter that I sent to the county board in advance of their May 14 vote on the beer garden's live music permit.

Bob

Dear Members of the County Board,

I am writing to you as the president of the Westover Village Civic Association. In the past few months, we have had several community meetings to discuss the Westover Beer Garden, allowing residents to voice their opinions about the garden and to seek common ground in addressing issues associated with it. During the last week of April, the civic association conducted a vote to determine community feelings. The residents of our civic association overwhelmingly voted to support the beer garden and its live music permit on the condition that it make a good faith effort to minimize noise disturbances to the immediate neighbors.

For most people in Westover and the neighboring civic associations, the Beer Garden is a treasured part of Westover life. It is an anchor for the community where neighbors young and old frequently gather on warm evenings to share a meal and listen to live music. Along with the new Westover Branch Library and Reed School, the beer garden has helped to strengthen a sense of community belonging and spur civic spirit. The garden has also revived the fortunes of the Westover Market, which faces stiff competition from the nearby Safeway and Harris Teeter without the niche advantage that the beer garden provides. The owners of the garden argue that live music brings in many customers and helps keep the business going.

The main problem with the garden is the noise that it has created in the past, disturbing the immediate neighbors who live directly behind it. These neighbors raise valid concerns that deserve to be addressed. Accordingly, it would be sensible to put a series of conditions on the beer garden live music permit. Based on the civic association vote, the majority of residents support limiting live music to 6 to 8 pm on Wednesdays and 6-10 pm on Friday and Saturday nights as a reasonable compromise. The sound levels should stay within existing county requirements. In order to enforce these conditions, the Beer Garden owners have committed themselves to investigate technical means to measure the sound at the fence of the nearest neighbor and record these measurements over time with data possibly posted to the Internet as a way of ensuring that the Beer Garden operates within legal limits.

Out of 109 valid votes from residents in the Westover Village Civic Association area, 90 voted to support the above recommendations; 13 supported fewer hours of operation for the live music; and 6 were opposed to granting this permit. I hope that you will take this input into account as you prepare to vote on the live music permit at your May 14 meeting.

Robert Orttung  
Westover Village Civic Association President

Dear Members of the County Board,

The Leeway Overlee Civic Association similarly supports the granting of the Use Permit for the Westover Market's beer garden by the County Board. At our last Leeway Overlee General Membership meeting held 16 April 2011 we took an informal vote on our support of the beer garden at Westover Market, assuming provisions are put in place to limit the decibels of music and the hours of operation. The vote was unanimous in support of live music at the beer garden, with the caveat that the provisions that are accepted would have to be supported by the immediate (most effected) neighbors in the Westover Civic Association. Based on the Westover Civic Association described below, I believe those provisions are supported.

Therefore, please accept this email as evidence of support by the Leeway Overlee Civic Association of the Use Permit the Westover Beer Garden seeks in order to allow them to have live music. If you have any questions or need further information, please contact me at one of the numbers below.

Sincerely,  
Karla Brown  
President, Leeway Overlee Civic Association  
(703) 536-8299 (h)  
(703) 731-3913 (c)  
[kapbrown@verizon.net](mailto:kapbrown@verizon.net)

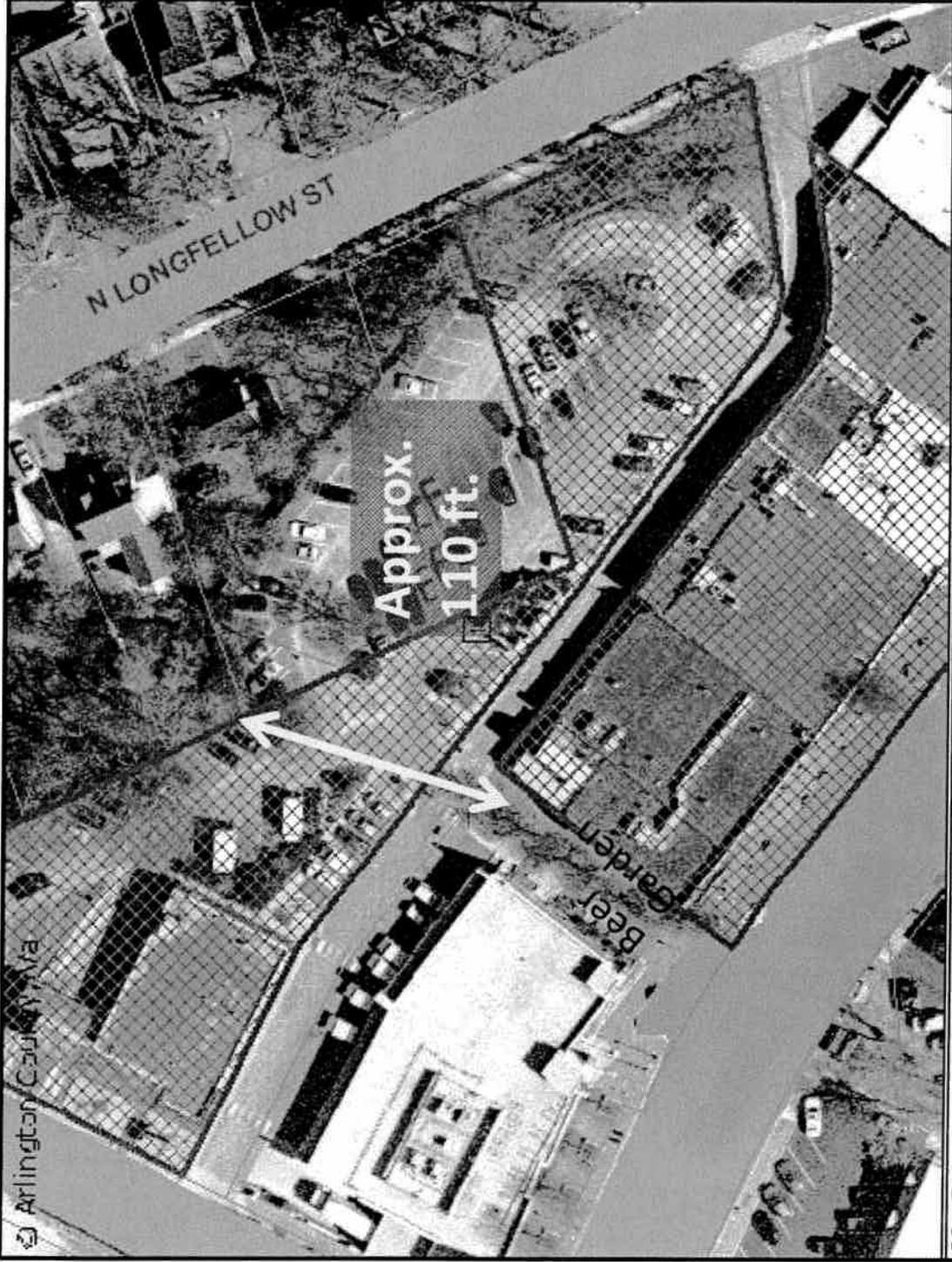
The Tara Leeway Heights civic association supports the County Board granting a Use Permit for the Westover Market's beer garden. Our civic association has worked with the surrounding citizens and civic associations, and been active during discussions regarding issues surrounding the granting of the Use Permit. The residents of the Westover civic association are those most affected by the issue of noise from live music. We therefore support the below correspondence from the Westover civic association where the Westover civic association supports a Use Permit for the Westover Market's beer garden with certain limitations on the times and noise levels for live music.

Best Regards

Bill Braswell

President Tara Leeway Heights Civic Association

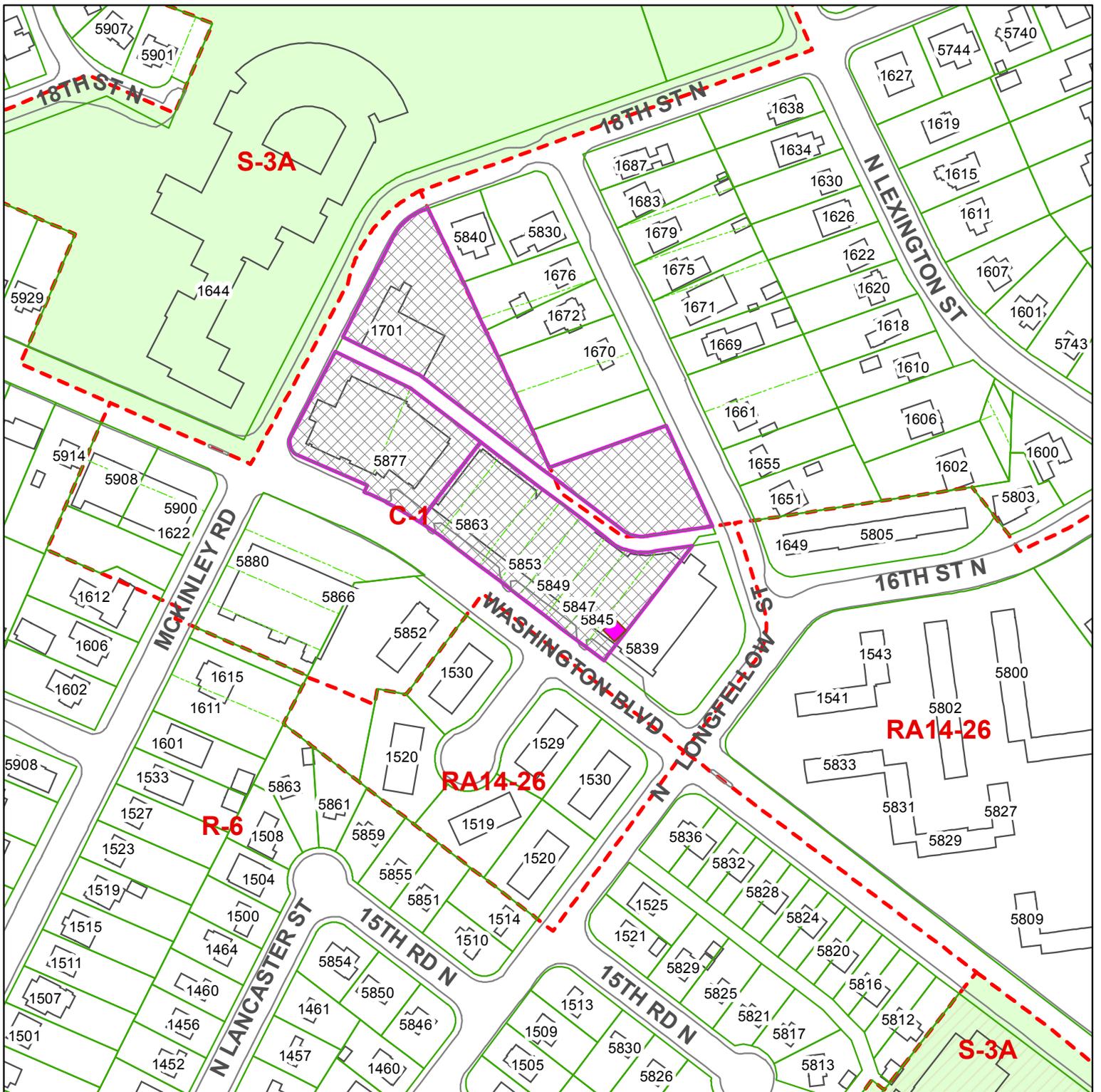
Westover market



Map Printed On (2011-04-14 11:46)

Legend

Distance to nearest residential property line



**U-3297-11-1**

**5841, 5853, and 5877 N. Washington Boulevard**

**RPC: 10-027-012 & -013**



 Case Location(s)  
 Scale: 1:2,000

Note: These maps are for property location assistance only. They may not represent the latest survey and other information.