



ARLINGTON COUNTY, VIRGINIA

County Board Agenda Item Meeting of October 15, 2011

DATE: September 28, 2011

SUBJECT: U-2795-93-1 USE PERMIT REVIEW for live entertainment and dancing at the Costa Verde Restaurant, located at 946 N. Jackson St. (RPC# 14-033-013).

APPLICANT:

Ismael Ayala (Owner)
946 N. Jackson St.
Arlington, Virginia 22201

C. M. RECOMMENDATION:

Renew subject to all previous conditions, a revised Condition #1 and new Condition #5 with Administrative review in four (4) months (February 2012) and County Board review in one (1) year (October 2012).

ISSUES: This is a request to renew a use permit for live entertainment and dancing for the Costa Verde restaurant. There have been a number of police department calls-for-service dispatched to the subject location since the last review in 2006, and two (2) such incidents have included fighting inside and adjacent to the location within the last 6 (six) months.

SUMMARY: This is a review of a use permit for live entertainment and dancing from 9 p.m. to 2 a.m., Thursday through Sunday. Generally, the use has operated in compliance with the conditions of the use permit. However, there have been a number of police department calls-for-service dispatched to the subject location during the last year, and two (2) such incidents have included fighting inside and adjacent to the location within the last 6 (six) months. Most calls-for-service tend to occur after midnight. Staff is recommending renewal for a limited period of time, revised hours to allow for appropriate Costa Verde staff training, and a period of increased observation by County staff. Therefore, it is recommended that this use permit be renewed, subject to all previous conditions, with an Administrative review in four (4) months (February 2012) and a County Board review in one (1) year (October 2012).

BACKGROUND: This use permit was first approved in February 1994, for live entertainment on the first floor, from 9 p.m. to 2 a.m., Thursday through Sunday. In 1995, the restaurant

County Manager:

BMD/GA

County Attorney:

[Signature]

[Signature]

8.

Staff: Jason Beske, DCPHD, Planning Division

changed ownership, and in 1999 the use permit was amended to expand the live entertainment to include the second floor of the restaurant. The business has generally operated within the confines of the specified conditions since the use permit has been in effect. The use permit was last renewed in October 2006 for a five-year period of time.

DISCUSSION: This is a request for a renewal of a use permit to allow live entertainment and dancing at the Costa Verde restaurant located at 946 North Jackson Street. This use permit has been in compliance with the specified conditions since the last review. However, there have been a number of police department calls-for-service in relation to the location during the last year. Specifically, the police have responded to calls regarding assault and battery on two (2) separate occasions. Both incidences occurred after 1:00 a.m. on weekends. The use permit allows live entertainment between the hours of 9:00 p.m. and 2:00 a.m. between Thursdays and Sundays. Staff recommends that the current use permit renewal be for a one (1) year period, with an Administrative review in four (4) months, and that the hours of operation for live entertainment be reduced to 9:00 p.m. – 12:00 a.m. Once the applicant is able to establish a consistently problem free record for the location a longer timeframe should be considered.

Staff is also recommending a condition that requires the applicant to enroll managers and employees working during the hours specified in Condition #1 in two (2) State programs offered by the Virginia Department of Alcoholic Beverage Control (ABC). Among other items, attendees to these programs learn to manage confrontational situations with customers, gain compliance assistance from ABC special agents, prevent sales to minors and intoxicated customers, spot fake identifications, and document alcohol-related incidents. Participants are educated in the laws and administrative regulations that govern alcohol sales and consumption in Virginia. This program is geared for sellers and servers of alcohol and is free to enrollees.

The applicant has been apprised of the new and revised conditions and has agreed to the inclusion of those conditions and to be diligent in compliance with the conditions.

Since the Last Review (October 6, 2006)

Community Code Enforcement: Community Code Enforcement was contacted concerning any issues with the live entertainment and dancing. No issues were raised.

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

Police Department: The Arlington Police Department identified a number of calls-for-service in regards to Costa Verde. The two (2) most concerning calls were in relation to fighting on the premises within the last six (6) months.

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

Civic Associations: Staff contacted Ballston-Virginia Square Civic Association and Ashton Heights Civic Association. They each responded that they have no issues with this use permit renewal.

CONCLUSION: Due to the circumstances made apparent during the review of this use permit, staff is recommending a shortened review period (Administrative Review after four [4] months and County Board review after one [1] year) and a modified condition for the hours of operation (9:00 p.m. to 12:00 a.m.) for the live entertainment and dancing activity. In addition, staff thinks that the employees of Costa Verde that are working during the hours specified in a revised Condition #1 should gain appropriate training that will assist in limiting the police department calls-for-service relative to the site. Therefore, staff recommends that the use permit for live entertainment be renewed, subject to previously-approved conditions, with revised Condition #1 and new Condition #5 as follows, and with an administrative review in four months and County Board review in one year. The applicant agrees to all conditions.

Revised Condition #1:

1. The applicant agrees that live entertainment shall be limited to a maximum of six (6) performers providing traditional and contemporary Latin Peruvian music. The music shall be limited to singing and percussion, string, and wind instruments, or a combination of these. Live entertainment shall be permitted only between the hours of 9:00 p.m. and 12:00 a.m. ~~2:00 AM~~, between Thursdays and Sundays.

New Condition #5:

5. The applicant agrees to provide alcoholic beverage training for, and to require attendance at such training by, all managers and employees prior to administrative review of the use permit by County staff in February 2012. Managers shall attend Managers' Alcohol Responsibility Training (MART) given by the Virginia Department of Alcoholic Beverage Control. All other employees that work during the times specified in Condition #1 of this use permit shall attend Responsible Sellers and Servers: Virginia's Program (RSVP), a class offered by the Virginia Department of Alcoholic Beverage Control. The applicant agrees that this training shall be documented and documentation of attendance by all staff will be provided to the County prior to such administrative review.

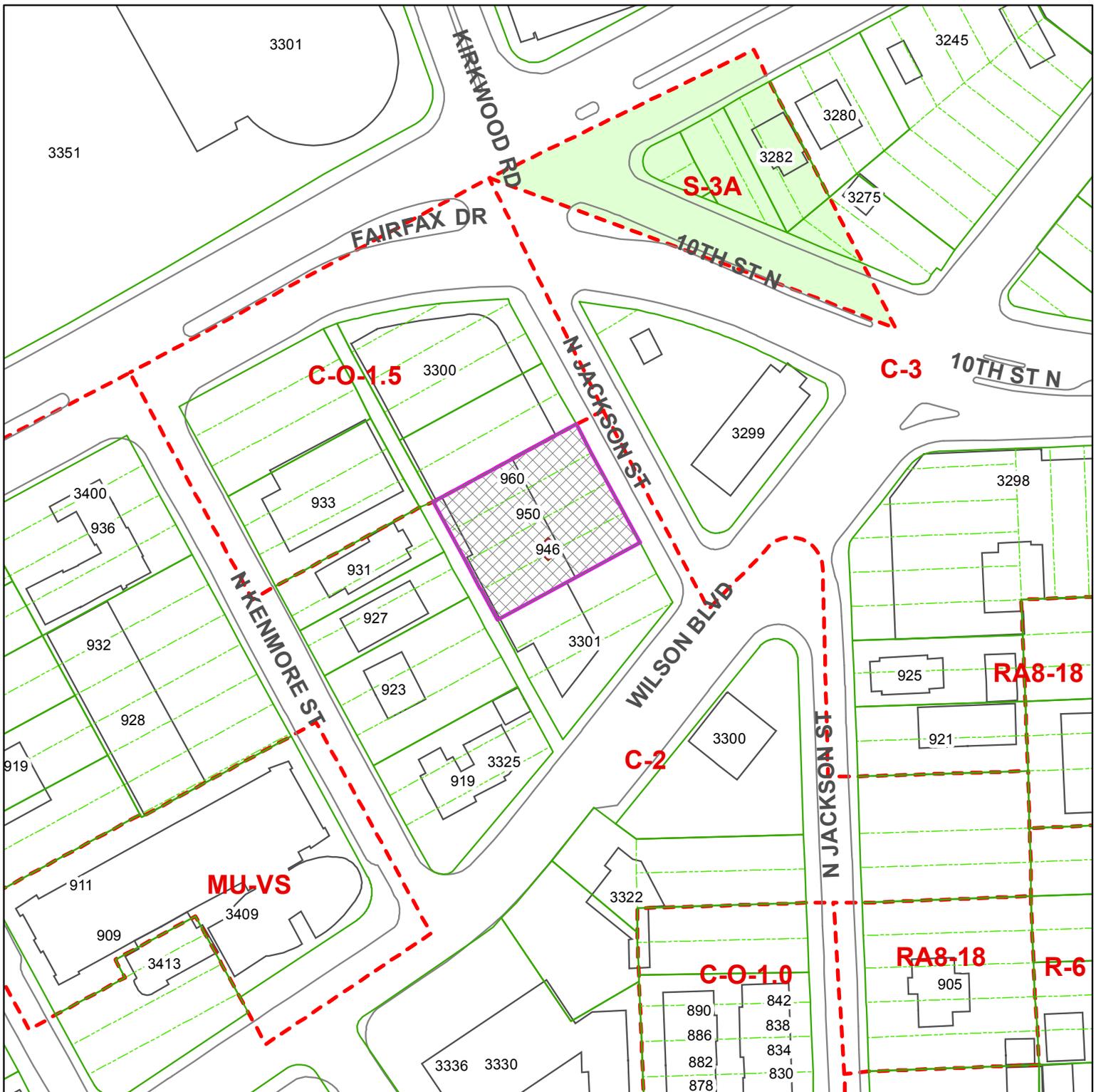
PREVIOUS COUNTY BOARD ACTIONS:

- February 5, 1994 Approved a use permit (U-2795-93-1) for live entertainment in a restaurant, Fridays and Saturdays from 8:00 p.m. to 1:00 a.m., and Sundays from 3:00 p.m. to 9:00 p.m., subject to the conditions of the staff report, and with a review in one (1) year.
- February 4, 1995 Continued a use permit (U-2795-93-1) for live entertainment in a restaurant, subject to all previous conditions, and with a review in three (3) years.
- February 7, 1998 Continued a use permit (U-2795-93-1) for live entertainment in a restaurant, subject to all previous conditions, and with a review in three (3) years.
- May 22, 1999 Deferred for three (3) months a use permit amendment request (U-2795-93-1) for extended live entertainment in an existing restaurant, subject to all previous conditions.
- August 14, 1999 Deferred a use permit amendment request (U-2795-93-1) for extended live entertainment to the October 2, 1999 County Board meeting, subject to all previous conditions.
- October 2, 1999 Approved a use permit amendment request (U-2795-93-1) for extended live entertainment, subject to amended condition #1, all other previous conditions, and with a review in six (6) months.
- April 8, 2000 Continued a use permit amendment (U-2795-93-1) for extended live entertainment, subject to all previous conditions, and with a review in one (1) year (April 2001).
- February 10, 2001 Took no action on use permit (U-2795-93-1).
- April 21, 2001 Continued a use permit amendment (U-2795-93-1) for extended live entertainment, subject to all previous conditions, and with a review in six (6) months.
- October 13, 2001 Renewed use permit for (U-2795-93-1) subject to all previous conditions, with an administrative review in six (6) months and a County Board review in one (1) year.

October 19, 2002	Renewed, subject to all previous conditions, and with a County Board review in one (1) year.
October 18, 2003	Renew the use permit, subject to all previous conditions and with a County Board review in three (3) years (October 2006).
October 4, 2006	Renew the use permit, subject to all previous conditions and with County Board review in five (5) years (October 2011).

Approved Conditions:

1. The applicant agrees that live entertainment shall be limited to a maximum of six (6) performers providing traditional and contemporary Latin Peruvian music. The music shall be limited to singing and percussion, string, and wind instruments, or a combination of these. Live entertainment shall be permitted only between the hours of 9:00 p.m. and 2:00 a.m., between Thursdays and Sundays.
2. No dancing shall take place without the applicant first obtaining a valid dance hall permit, which would be renewed on an annual basis. No go-go dancing shall be permitted.
3. The applicant agrees to identify an on-site liaison to respond to any community concerns. The applicant shall furnish the Zoning Administrator, the Ballston-Virginia Square Civic Association, and the Ashton Heights Civic Association with the name and telephone number of the on-site liaison.
4. The applicant shall ensure that all windows and doors to the subject site shall be kept closed at all times and shall soundproof the structure as needed to meet the Noise Ordinance.



U-2795-93-1

946 North Jackson Street

RPC #14-033-013



 Case
 Location(s)
 Scale: 1:1,200

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