



ARLINGTON COUNTY, VIRGINIA

County Board Agenda Item Meeting of November 19, 2011

DATE: November 9, 2011

SUBJECT: U-3310-11-2 USE PERMIT for restaurant providing live entertainment; located at 2933 Wilson Boulevard (RPC# 15-066-001).

Applicant:

Karen Orlando
1915 N. Wayne Street
Arlington, Virginia 22201

C. M. RECOMMENDATION:

Approve the use permit for a restaurant providing live entertainment, subject to the conditions of the staff report, with an administrative review in three (3) months (February 2012), and a County Board review in one (1) year (November 2012).

ISSUES: This is a request for a use permit for live entertainment for Mexicali Blues. The Lyon Village and Clarendon-Courthouse Civic Associations commented when the application was filed that they did not support the applicant's request for live entertainment. The applicant has worked with staff and the two (2) civic associations to revise requested hours and types of live entertainment to a level supported by staff and adjacent neighbors. The Lyon Village Civic Association has commented that they support the revised request; the Clarendon-Courthouse Civic Association will meet on November 15, 2011 to discuss the revised request.

SUMMARY: This is a request for live entertainment at the Mexicali Blues restaurant. The site is located at the northeastern corner of Wilson Boulevard and North Garfield Street in Clarendon. The applicant requests a permit for live entertainment in the form of live bands, karaoke, and/or DJ's Fridays and Saturdays between 10 p.m. and 12:30 a.m., and acoustic music seven (7) days a week between 5 p.m. and 7 p.m. The restaurant is located in close proximity to single-family homes to the north along North Garfield Street; staff considers that the proposed

County Manager: *BMD/GA*

County Attorney: *[Signature]* *[Signature]*

Staff: Matthew W. Pfeiffer, DCPHD, Planning

PLA-6036

15.

hours for live entertainment, combined with standard conditions for Clarendon Live Entertainment uses (to which the applicant has agreed), will result in successful operation of live entertainment at this site. Staff is recommending a short administrative review to monitor the use. Therefore, staff recommends approval of the use permit for live entertainment, subject to the conditions of the staff report, with an administrative review in three (3) months (February 2012) and a County Board review in one (1) year (November 2012).

BACKGROUND: The applicant is requesting a use permit for live entertainment at Mexicali Blues in Clarendon. The restaurant previously held a use permit for live entertainment which was discontinued in 2010 due to lack of use. The restaurant is requesting a new use permit be approved to allow it to compete with other restaurants in Clarendon that hold regular live entertainment events. The following provides additional information about the site:

Site: The block on which the site is located is bound on the south by Wilson Boulevard, on the west by N. Garfield Street, on the east by N. Fillmore Street, and on the north by Franklin Road.

Zoning: The site is zoned “C-3” General Commercial Districts.

Land Use: The subject site is designated on the General Land Use Plan (GLUP) as Mixed Use “Medium Density Mixed-Use.”

Neighborhood: The site is located within the Lyon Village Civic Association. Staff contacted the Lyon Village and Clarendon Courthouse Civic Associations for comment on this proposal. The Clarendon-Courthouse Civic Association responded that they did not support the applicant’s proposal based on community input obtained at their October meetings. As a result of this input, and input from staff, the applicant revised the application to the hours described above (previously, the applicant had requested longer days and hours in which amplified live entertainment would be provided). The applicant invited the presidents of the Lyon Village and Clarendon-Courthouse Civic Associations to an on-site meeting on October 29, 2011 to discuss the proposal. As a result of that meeting, the Lyon Village Civic Association has expressed that they support the applicant’s proposal. The Clarendon-Courthouse Civic Association protocol is to obtain a membership consensus prior to an official position by the civic association; as a result, their position remains unchanged. However, the civic association has invited the applicant to their November 15, 2011 meeting to discuss the proposal.

DISCUSSION: The applicant requests a use permit for live entertainment at Mexicali Blues, located at the corner of Wilson Boulevard and North Garfield Street in Clarendon. The applicant proposes that live entertainment be provided in the form of live bands, DJ’s, and karaoke during the hours of 10 p.m. to 12:30 a.m. Fridays and Saturdays, and acoustic music during “happy hour” 5 p.m. to 7 p.m., seven (7) days a week. The applicant has agreed to the conditions recommended as standard conditions by the Guidelines and Standard Conditions for Live Entertainment in Clarendon, which was developed with staff, community, and business input in November 2010.

While the restaurant fronts on Wilson Boulevard—an active, pedestrian-oriented street in Clarendon—it is proximate to residential uses along North Garfield Street to the north. As a result, the applicant worked with staff and the community to develop hours of operation and types of live entertainment appropriate for the site’s setting. The restaurant also obtained signed statements from a number of the residences located on North Garfield Street closest to the restaurant indicating support for live entertainment at this site (see attachment).

Mexicali Blues previously held a use permit for live entertainment that was approved in 2003 and discontinued in 2010 due to lack of use. The conditions of the previous use permit restricted live entertainment to no more than three (3) nights per week, and for not more than two (2) hours at a time, and limited the type of live entertainment to “primarily acoustic” music. The applicant’s current request would expand the intensity of live entertainment at the site by allowing acoustic music during “happy hour” on weekdays, and by allowing amplified music on weekends for slightly longer than two (2) hours. Staff believes that with the proposed conditions, there will be no undue impact to adjacent neighborhoods. Staff is recommending a short administrative review to monitor the operation of live entertainment.

CONCLUSION: The applicant requests a use permit for Mexicali Blues to provide acoustic live entertainment during “happy hour” and amplified live entertainment during weekend nights. The site is proximate to residential uses; however, the applicant has provided staff with a statement from nearby homeowners indicating support for live entertainment. The request represents an expansion of the intensity of the use compared to what was approved previously at this site. The applicant has worked with staff and the community on appropriate restrictions on live entertainment at this site. The Police Department, Fire Marshal, Virginia Department of Alcoholic Beverage Control (ABC), and the Code Enforcement Office all report that there are no issues with the approval of live entertainment at this site. The applicant has agreed to standard conditions for Clarendon Live Entertainment uses. Therefore, staff recommends approval of a use permit for live entertainment, subject to the following conditions, with an administrative review in three (3) months (February 2012) and a County Board review in one (1) year (November 2012).

Proposed Conditions:

1. The applicant agrees that acoustic live entertainment is permitted only from 5 p.m. to 7 p.m. seven days per week. Non-acoustic live entertainment (live bands, DJ, and karaoke) shall be permitted only from 10 p.m. to 12:30 a.m. Fridays and Saturdays.
2. The applicant agrees to comply, by way of illustration and not limitation, with all applicable requirements of County and State Ordinances, the Environmental Health Bureau, and the Fire Marshal, the Police Department and the Alcohol Beverage Control Board (ABC).
3. The applicant agrees that on-site dedicated security shall be provided from 9:00 p.m. until closing on nights that have bands or deejays whose primary purpose is to serve a dancing crowd. The on-site security may consist of “in house” staff, so long as that staff is dedicated to security only during the hours of live entertainment.

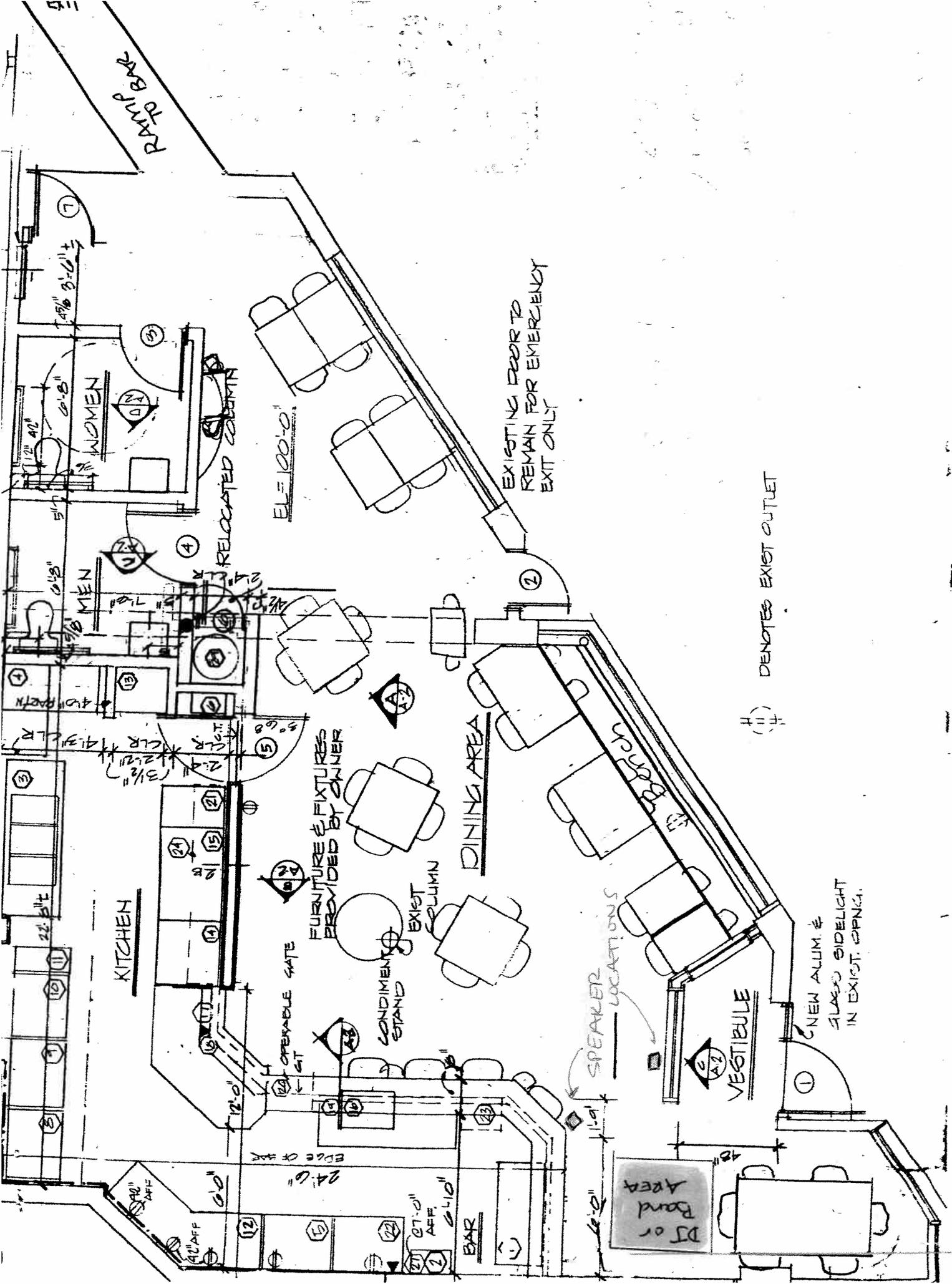
4. The applicant agrees to comply with the Arlington County noise ordinance and further agrees that the restaurant's windows and doors shall remain closed during the times of live entertainment except for the purposes of entry, egress, and other intermittent uses, such as serving an outdoor seating area. Under no circumstances shall live entertainment be permitted outside of the building or broadcast over loudspeakers outside of the building. The applicant agrees that doors shall not be propped open during live entertainment.
5. The applicant agrees that all staff serving alcohol to customers shall have TIPS (Training for Intervention Procedures) certification.
6. The applicant agrees that dancing is not permitted until the applicant obtains a Dance Hall Permit from the Zoning Office.
7. The applicant agrees to post signs in windows telling patrons to respect the peace of residential neighborhoods and to avoid parking in the residential neighborhood where possible.
8. The applicant agrees to ensure that any patrons queuing outside should keep noise to a minimum.
9. The applicant agrees to make customers aware of proximity to Metro, available parking and any special parking arrangements through postings in the restaurant and on their website.
10. The applicant agrees to clean the sidewalk in front of its establishment each morning, including sweeping cigarette butts and litter that may have accumulated from any outdoor seating area, if applicable.
11. The applicant agrees to participate in the established Clarendon Live Entertainment Neighborhood Advisory Group, consisting of representatives of the Clarendon live entertainment establishments, the Clarendon Alliance, the Clarendon-Courthouse Civic Association, the Lyon Village Citizens Association, the Lyon Park Civic Association, and representatives of various County staff including Police, Fire Marshal, Code Enforcement, and Planning. The advisory group meets quarterly as required to work through issues associated with the live entertainment uses. One (1) of the quarterly meetings will consist of an educational seminar to review requirements and regulations of various departments, codes, and policies. The applicant agrees to have a representative with management authority in the restaurant attend all such meetings.
12. The applicant agrees to designate and make available a neighborhood liaison to communicate with nearby residents and neighbors to address concerns which may be related to the live entertainment and an onsite liaison that shall be available during the hours of the business operation to receive and respond to community concerns regarding the live entertainment. The name and telephone number shall be submitted to the Zoning

Administrator and a copy sent to the Clarendon-Courthouse Civic Association, the Lyon Village Citizens Association, the Lyon Park Civic Association, and the Clarendon Alliance.

13. The applicant agrees that the approval for live entertainment at 2933 Wilson Boulevard is valid only for Mexicali Blues. Any other tenant/owner occupying the premises shall not be permitted to have live entertainment without prior approval of the County Board.

PREVIOUS COUNTY BOARD ACTIONS

January 11, 2003	Approved use permit (U-3050-02-1) for live entertainment with a review in nine (9) months (October 2003). (Mexicali Blues)
October 18, 2003	Renewed use permit (U-3050-02-1) for live entertainment at Mexicali Blues
October 2, 2004	Renewed use permit (U-3050-02-1) for live entertainment at Mexicali Blues
October 18, 2005	Renewed use permit (U-3050-02-1) for live entertainment at Mexicali Blues
May 20, 2006	Renewed use permit (U-3050-02-1) for live entertainment at Mexicali Blues
May 5, 2007	Renewed use permit (U-3050-02-1) for live entertainment at Mexicali Blues
November 15, 2008	Renewed use permit (U-3050-02-1) for live entertainment at Mexicali Blues
November 13, 2010	Discontinued use permit (U-3050-02-1) for live entertainment at Mexicali Blues



From: HK Park <hkpark100@hotmail.com>
Sent: Monday, October 31, 2011 9:38 PM
To: Matthew Pfeiffer; Don Gay
Cc: Ken Fulton (CCCA)
Subject: RE: Live music use permit for Mexicali Blues

Matt, as discussed today, Lyon Village agrees with the revised hours: acoustic music 4 PM- 7 PM on weekdays; DJ, band or karaoke 10 PM -1230 AM on Friday/Saturday as long as these hours and descriptions are included in the Use Permit and the same conditions for RiRa apply.

We want to support local businesses who have good reputations with the neighborhood. However, if we encounter any problems with the live music, rest assured that we will promptly alert you.

Thanks for contacting us.

H.K. Park
President, Lyon Village
(703) 201-7701

<http://www.lyonvillage.org>

From: Kenneth Fulton <kennethgfulton@yahoo.com>
Sent: Wednesday, October 19, 2011 7:07 AM
To: Matthew Pfeiffer; Marco Rivero
Cc: Tim Wise; Adam Thocher; Peter Owen; Melissa Bondi; Richard Dumas; HK Park
Subject: Re: Live music permits - County staff request for comments

Follow Up Flag: Follow up
Flag Status: Completed

Matthew and Marco,

The CCCA met last night, and our discussion included new and renewing permits. Below are the the positions regarding applications for which you have asked comments:

Clarendon Farmers Market -- The CCCA supports renewal of this permit, and has no adverse comments.

Mexicali Blues (new live entertainment) -- The CCCA does not support this permit. The CCCA President visited the restaurant and spoke with the its manager and emailed the owner to learn preliminary and sketchy details of the planned operations, and invited a management representative to attend a CCCA meeting where two other businesses (Mad Rose Tavern and Arlington Rooftop Bar and Grill) presented information about their business plans and responded to CCCA member questions. Representatives of Mexicali Blues declined to meet with the CCCA, and the information contained in the formal application indicates substantially longer hours and more neighborhood intrusive operations than was indicated in preliminary conversations. The CCCA is supportive of business activities in its neighborhood, as indicated by the other positions below, but in this instance does not believe the permit would be in the broad general interest of the neighborhood.

Mad Rose Tavern (new live entertainment) -- The CCCA supports this permit but with a 6 month review period as opposed to the usual 12 month. CCCA members have observed and spoken with the manager on repeated occasions (but have not filed formal complaints) regarding failure to maintain the required 6-foot clear sidewalk space adjacent to outdoor cafe seating, and open doors that permit loud recorded music into the street. While the applicant has demonstrated greater adherence to existing site requirements, we would encourage County staff and the Board to have a shorter review and evaluation period until a consistent pattern of compliance is established.

11th Street Lounge (renewal live entertainment) -- The CCCA supports renewal of this permit, and has no adverse comments.

Guarapo (renewal live entertainment) -- The CCCA supports renewal of this permit, and has no adverse comments.

Regards,
Ken Fulton
CCCA President

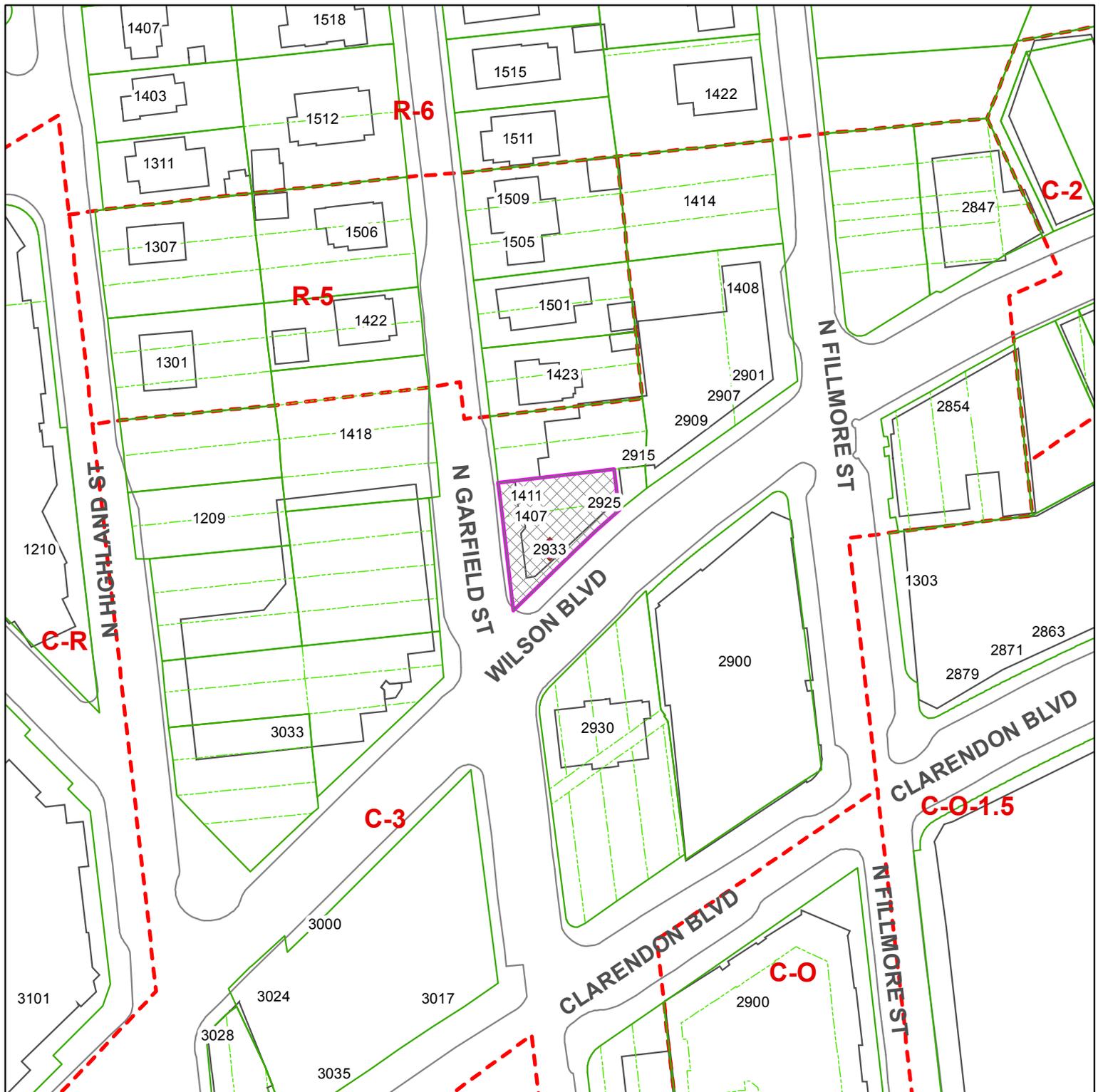
cc: CCCA Executive Committee
HK Park, Lyon Village

Permission for Mexicali Blues to acquire a use permit for live entertainment:

Bands/Karaoke/DJ 10 pm to 12:30 am Friday and Saturdays only

Happy Hour acoustic music 5pm to 7pm Monday thru Sunday

Name	Address Garfield	Phone
* Alan Krause	1509 Wicks	703 325-5224
* Schwartz - WAKEMAN	1511 1511 GARFIELD	(703) 524-9650
	1512 Garfield	not home
	1518 Garfield	not home
Bucks	1600 Garfield	703) 312-1144
	1604	not home
* Chris PETER BUCK	1506 Garfield	
William O'Neil	1620 Garfield St	703-524-2040
Freeman	1612 N. Garfield	703 465 5252
Morrison	1601 N. Garfield	(703) 521-2021
* Meredith Wells	1422 N Garfield St.	(252) 305-1466
ERNST Nilsson	1616 N Garfield	(703) 248-6866
MATTHEW FOUST	1613 N GARFIELD	(702) 369-2621
* MM	1501 N Garfield	707 676 3784
* Dustin P.	1501 N. Garfield St	(610) 739-8842



U-3310-11-2

2933 Wilson Boulevard

RPC# 15-066-001



 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.