



ARLINGTON COUNTY, VIRGINIA

County Board Agenda Item Meeting of April 21, 2012

DATE: April 6, 2012

SUBJECT: U-2795-93-1 USE PERMIT AMENDMENT allowing live entertainment and dancing for a new tenant, DARNA Restaurant; located at 946 N. Jackson St. (RPC# 14-033-013).

Applicant:

Ahmad M. Ayyad
946 North Jackson Street
Arlington, Virginia 22201

C.M. RECOMMENDATION:

Approve the use permit amendment, subject to the conditions of the staff report, revised conditions #1 and #4 and new conditions #6 and #7, with an administrative review in six (6) months (October 2012) and a County Board review in one (1) year (April 2013).

ISSUES: This is a use permit amendment request for a new tenant, DARNA Restaurant for live entertainment and dancing, and no issues have been identified.

SUMMARY: This is a use permit amendment request for live entertainment and dancing at DARNA Restaurant located at 946 North Jackson Street. The restaurant is located within a commercial building which faces a parking lot and is surrounded by commercial/office buildings. The applicant has agreed to limit the hours of live entertainment and dancing from 8:00 p.m. to 1:30 a.m. Thursdays, Fridays, and Saturdays and from 8:00 p.m. to 12:00 a.m. Wednesdays and Sundays. The applicant's proposed live entertainment and dancing, with the proposed conditions, should not result in undue negative impact on the adjacent properties and is consistent with other similar establishments. Therefore, staff recommends approval of the use permit amendment, subject to the conditions of the staff report, revised conditions #1 and #4 and new conditions #6 and #7, with an administrative review in six (6) months (October 2012) and a County Board review in one (1) year (April 2013).

County Manager:

BMD/GA

County Attorney:

[Signature] *[Signature]*

Staff: Marco Antonio Rivero, DCPHD, Planning Division

PLA-6151

10.

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 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. In October 2011, the use permit was renewed with one revised condition (Condition #1) limiting the hours of live entertainment until 12 a.m. and removing restrictions to the type of live entertainment being performed at the restaurant. Furthermore, a new condition (Condition #5) was added to ensure that the applicant provides alcoholic beverage training for all managers and employees prior to an administrative review of the use permit by County staff in February 2012. The use permit was administratively reviewed in February 2012 where it was found that the former tenant, Costa Verde Restaurant, was no longer in business. Staff also found out during this review that the new tenant, DARNA Restaurant was exploring continuing the live entertainment use and modifying condition language to allow greater flexibility for approved conditions. Therefore, staff recommended renewal of the use permit with a County Board review in eight (8) months (October 2012) in order to monitor the progress of the new restaurant and their compliance with the approved conditions. The Zoning Office confirmed that the new restaurant is currently not providing live entertainment.

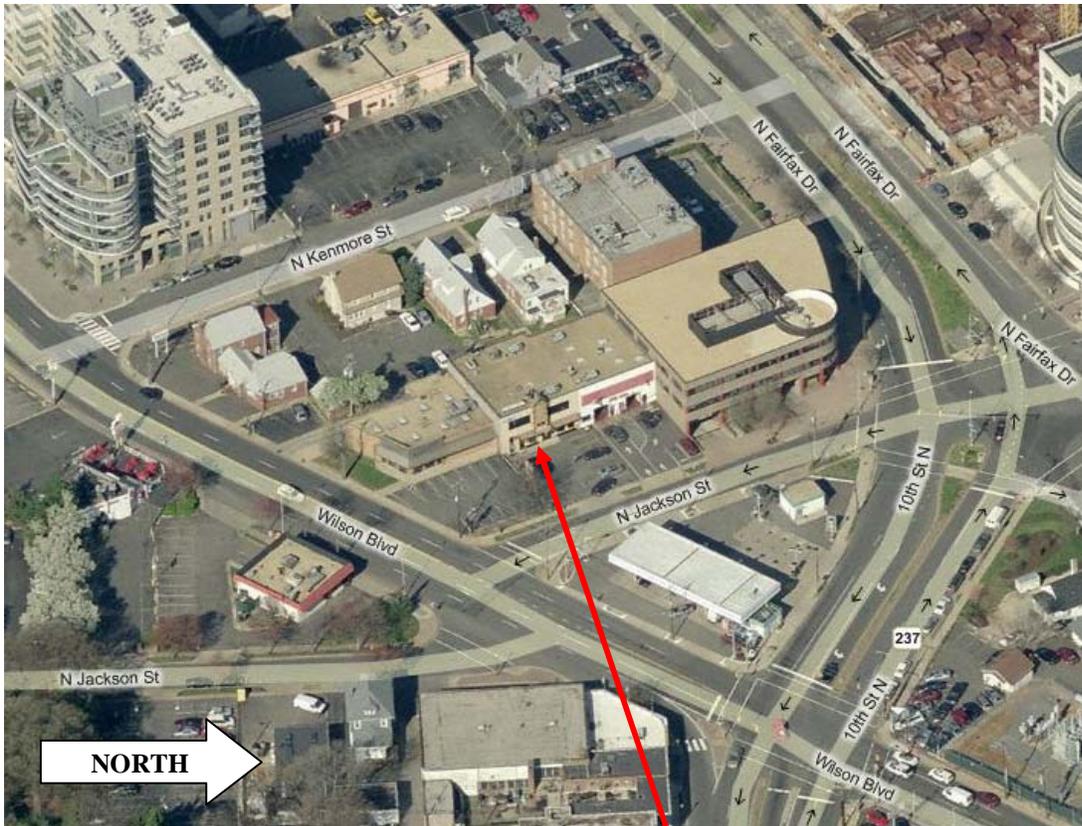
The following provides additional information about the site and location:

Site: The approximately 12,000 sq. ft. site is bounded by Fairfax Drive to the north, Wilson Boulevard to the south, North Jackson Street to the east, and North Kenmore Street to the west. The surrounding properties consist of by-right, commercial office buildings and SP #197 (Virginia Executive Center) which is an office building completed in 1986.

Zoning: The site is zoned “C-2” Service Commercial – Community Business Districts.

Land Use: The site is designated on the General Land Use Plan (GLUP) as “Medium Density Mixed-Use” (3.24 FAR for properties east of North Kansas Street in the East End of Virginia Square).

Neighborhood: The site is located within the Ballston-Virginia Square Civic Association area and is adjacent to the Ashton Heights Civic Association. The Ashton Heights Civic Association commented stating they will inform their executive committee about this use permit amendment. No other comments have been received from the civic associations as of the writing of this staff report.



Source: Bing™ Maps

Location of DARNA Restaurant: 946 N Jackson St

DISCUSSION: The owners of DARNA Restaurant are requesting a use permit amendment to allow live entertainment and dancing from Wednesdays through Sundays between 8 p.m. and 2 a.m. The restaurant is located within a commercially zoned area which allows live entertainment and dancing under special exception. Staff was concerned over the proposed hours of live entertainment and dancing setting a precedent for live entertainment hours that have not been instituted within the Clarendon and Virginia Square areas. During the October 2011 County Board review, hours for live entertainment were modified from entertainment between 9:00 p.m. and 2:00 a.m. to an end time of 12:00 a.m. between Thursdays and Sundays. A zoning inspector confirmed to staff that no live entertainment occurs at the present time within this establishment. The modified hours approved at the October 2011 County Board meeting reflected upon the issues that were associated with the previous tenant. Staff is proposing to modify these hours and allow the new tenant to operate under hours that have been approved in other areas primarily in the Clarendon and Virginia Square for live entertainment and dancing.

The applicant has agreed to modify Condition #1 of the use permit for live entertainment and dancing to be Wednesdays and Sundays until 12:00 a.m. and Thursdays, Fridays, and Saturdays from 8:00 p.m. to 1:30 a.m. There will be no live entertainment and/or dancing occurring on Mondays and Tuesdays. The modified hours of operation for live entertainment and dancing are consistent with the approved hours of operation for establishments in Clarendon and Virginia

Square. Subsequently, the applicant has agreed to revised and added conditions for live entertainment which ensure compliance with various County and State agencies, the Arlington County Noise Ordinance, and to provide on-site security during the hours of live entertainment and dancing. Therefore, staff does not anticipate an undue negative impact on adjacent properties. Staff will monitor the modified live entertainment and dancing use by administratively reviewing the use permit in six (6) months to verify that there are no major incidents or issues are raised by the Police Department, Virginia ABC, or Zoning inspections staff. No comments or issues have been raised by these offices regarding this recommendation.

CONCLUSION: The applicant's proposal for live entertainment and dancing, with the revised and proposed conditions, should not have an undue negative impact on adjacent properties. The Police Department has not expressed any issues with this use permit request, and the applicant has agreed to comply with all applicable requirements of County and State Ordinances, per the proposed use permit conditions. Therefore, staff recommends approval of the use permit amendment, subject to all previous conditions, with revised conditions #1 and #4 and new conditions #6 and #7, with an administrative review in six (6) months (October 2012) and a County Board review in one (1) year (April 2013).

Revised Conditions #1 and #4:

1. The applicant agrees that live entertainment and dancing shall be permitted only between the hours of 8:00 p.m. ~~9:00 p.m.~~ and 1:30 a.m. ~~12:00 a.m.~~, Thursdays, Fridays, and Saturdays and between the hours of 8:00 p.m. and 12:00 a.m. on Wednesdays and Sundays. The Applicant further agrees that no live entertainment or dancing shall be permitted on Mondays or Tuesdays.
4. The applicant agrees to ensure that all windows and doors to the subject site shall be kept closed at all times except for the purposes of entry, egress, and other intermittent uses, such as serving an outdoor seating area, and agrees to soundproof the structure as needed to ~~meet~~ maintain compliance with the Arlington County the Noise Ordinance. The applicant agrees that under no circumstances shall live entertainment and dancing be permitted outside of the building or broadcast over loudspeakers outside the building.

Proposed New Conditions:

6. The applicant agrees to comply with all applicable requirements of County and State Ordinances, including, by way of illustration and not limitation, the Environmental Health Bureau, and the Fire Marshal, the Police Department, and the Alcohol Beverage Control Board (ABC).
7. The applicant agrees to provide on-site dedicated security from 8:00 p.m. until closing on nights when dancing is permitted. The on-site security may consist of "in-house" staff, so long as that staff is dedicated to only security during the hours of live entertainment and dancing.

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).
October 15, 2011	Renew the use permit, subject to all previous conditions, and amended Condition #1 and new Condition #5, with an administrative review in four (4) months (February 2012) and a County Board review in one (1) year (October 2012).

Approved Conditions:

1. Live entertainment shall be permitted only between the hours of 9:00 p.m. and 12:00 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.
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.

ATTACHMENT

The real estate is owned by the Robert and Bertha Robinson Family, LLC, which is managed by Robert C. Robinson and Bertha J. Robinson. The LLC is owned by Robert C. Robinson and Bertha J. Robinson and their three children who are: Roberta Renee Metzler, Constance Lynn Shaw and Julia Ann Shimizu. The names and address of these individuals are:

Robert C. Robinson
3758 Little Cobbler Turn
Delaplane, VA 20144-2120

Bertha J. Robinson
3758 Little Cobbler Turn
Delaplane, VA 20144-2120

Roberta Renee Metzler
994 N. Quintana
Arlington, Virginia 22205

Constance Lynn Shaw
106 N. Oakland St.
Arlington, Virginia 22203

Julia Ann Shimizu
12334 Emelita St.
North Hollywood, CA 91607

APPLICANT: Mr. Ahmad M. Ayyad
MAAJ, Inc.
d/b/a DARNA Restaurant

PROPERTY: 946 N. Jackson Street
Arlington, Virginia 22201

AGENT: Traci R. Scudder, Esq.
Law Office of Traci R. Scudder
P.O. Box 114
Bowie, Maryland 20719

STATEMENT OF SUPPORT

Mr. Ahmad M. Ayyad (“Applicant”), an owner of DARNA Restaurant (the “Restaurant”) located at 946 N. Jackson Street, Arlington, Virginia 22201 (the “Property”), submits the subject Use Permit Application for an amendment to an existing use permit (U-2795-93-1). The sole purpose of this application is to request certain modifications, as outlined herein, of the current conditions associated with a use permit.

The subject property consists of Lots 126, 127, 128 and 129, and is zoned C-2. The subject building was constructed in 1966, and is located south of North Kenmore Street and east of Wilson Boulevard. A public alley runs along the rear of the building. Up until recently, this property had been occupied by Costa Verde Restaurant.

The Applicant in this matter, along with two other partners, recently purchased the former Costa Verde Restaurant in January 2012. The Applicant and his partners intend to operate a dine-in restaurant which will serve Mediterranean food and Mezze-style dishes. The overall style of the restaurant will have a Mediterranean theme. On most occasions, patrons will enjoy the sound of live Arabic music. The downstairs portion of the restaurant will provide more of a formal dining setting, while upstairs will offer the Mezze-style dishes, along with hookah and a

lounge-type atmosphere. The owners believe that DARNA Restaurant will attract a mature, professional audience

As background, Costa Verde Restaurant previously operated at the subject location from 1994 to 2012. On February 9, 1994, Use Permit U-2795-93-1 for 946 North Jackson Street was issued to Costa Verde Restaurant. The County Board approved the Use Permit 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 following conditions and review in one year:

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1. The applicant agrees that live entertainment shall be limited to a maximum of three (3) performers providing traditional Peruvian music. The music shall be limited to singing, piano, or guitar instruments, or a combination of these. Live entertainment shall be permitted only between the hours of 8:00 P.m. and 1:00 a.m. on Fridays and Saturdays, and between 3:00 p.m. and 9:00 p.m. on 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 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.
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In October 2011, the County Board renewed the subject use permit for the parcel of real property known as 946 N. Jackson St. (RPC# 14-033-013), approval being 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).

Under revised Condition #1, some restrictions were lifted which had limited the maximum number of live performers providing traditional and contemporary Latin Peruvian music to six (6). Restrictions on the types of instruments to be used were also lifted. Additionally, under revised Condition # 1, live entertainment at the restaurant was limited to the hours of 9:00 p.m. and 12:00 a.m., between Thursdays and Sundays.

Further, a new condition # 5 was imposed, which states the following:

“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. “

As indicated above, the sole purpose of this Use application is to request specific amendments to the current conditions. The Applicant is only requesting an amendment that would allow DARNA Restaurant to have live entertainment on Wednesdays thru Sundays, 8:00

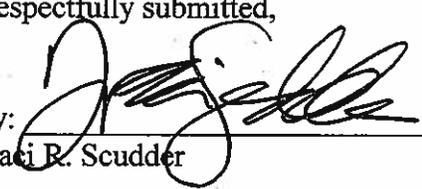
p.m. to 2:00 a.m.

It should be noted that DARNA Restaurant is not introducing any new uses into the subject area. DARNA will continue to operate as a restaurant, with live entertainment. Since these same uses have operated at this location for at least the past twenty years, the community will not be negatively impacted. The Applicant recently notified the Ballston-Virginia Square Civic Association and the Ashton Heights Civic Association of its proposed plans. To date, the Applicant has not received any comments or objections to the proposed restaurant.

CONCLUSION

For the foregoing reasons, the Applicant requests an amendment to the current Use Permit for Live Entertainment. As previously noted, these particular uses have historically operated at this location and the Applicant is respectfully requesting to continue the same uses, subject to the formerly imposed condition, with only one minor amendment to the hours of live entertainment.

Respectfully submitted,

By: 
Traci R. Scudder

LAW OFFICE OF TRACI R. SCUDDER
PO Box 114
Bowie, Maryland 20719

Attorney for Applicant



ARLINGTON
VIRGINIA

Arlington County, Virginia
Department of Community Planning, Housing and Development
Planning Division, Zoning Administration
Inspection Services Division

CAPACITY CERTIFICATE

The capacity of Assembly Occupancies is established by the Virginia Uniform Statewide Building Code. Seating may also be limited by the Arlington County Zoning Ordinance. Exceeding the capacity stated below is a violation of the Virginia Statewide Fire Prevention Code and may result in penalties set forth therein.

Address

946 N Jackson Street

Max. Capacity

Name of Business

Darna

132

Certificate of Occupancy

CO 1100927

Description	Outdoor Seating	Indoor Seating	Standing Limit		Total
			1 st floor	2 nd floor	
Restaurant	0	1 st floor 64 2 nd floor 53	1 st floor 10 2 nd floor 5	1 st floor 74 2 nd floor 58	

Authorized by

November 15, 2011

Building Official

Date

THIS CERTIFICATE SHALL BE CONSPICUOUSLY POSTED AT ALL TIMES.

2100 Clarendon Blvd., Suite 1000, Arlington, VA. 22201. Tel: 703-228-3883, Fax: 703-228-3896. www.arlingtonva.us



ARLINGTON
VIRGINIA

Department of Community Planning, Housing and Development.
Planning Division, Zoning Administration Inspection Services Division

CERTIFICATE OF OCCUPANCY

Permission is hereby granted to: **MAAJ INC D/B/A DARNA**

To use the: **1,2** floor, and /or suite number:

Of the building located at: **946 N JACKSON STREET,**

For the following purpose: **RESTAURANT.**

Permit Number	CO1100927	Date Issued	12/05/2011
Seating Capacity (Zoning)	119	Occupant Load	
Number of Children		Zoning	C-2
Use Group	A-2	Const.Type	1B
Code Mod.		Use Permit	Y
Site plan Number	0	V.U.S.B.C.	2006
Comments		Sprinkl Req.	Y
		Fire Alarm	Y

This certificate does not take the place of any license required by law. Any change in the use, ownership, or occupancy of this building or land shall require a new certificate of occupancy.

This Building or the proposed use of the building or land complies with all provisions of the Virginia Uniform State Building Code and the Arlington County Zoning Ordinance.

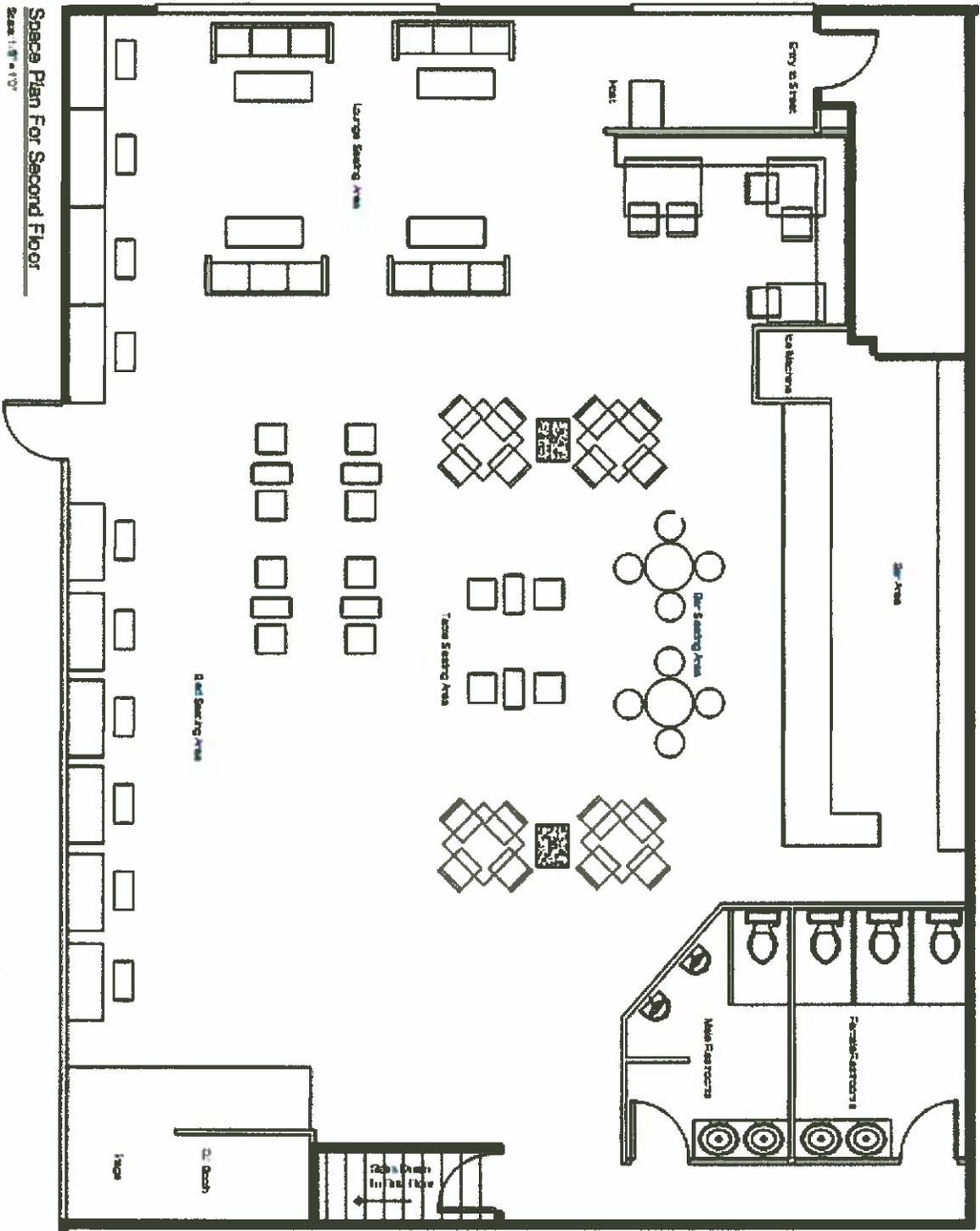
Authorized by

Shahriar Amiri
Building Official

Norma J. Cozart
Acting Zoning Administrator

THIS CERTIFICATE SHALL BE CONSPICUOUSLY POSTED AT ALL TIMES.

2100 Clarendon Blvd., Suite 1000, Arlington, Va. 22201. Tel: 703-228-3883, Fax: 703-228-3896. www.Arlingtonva.us

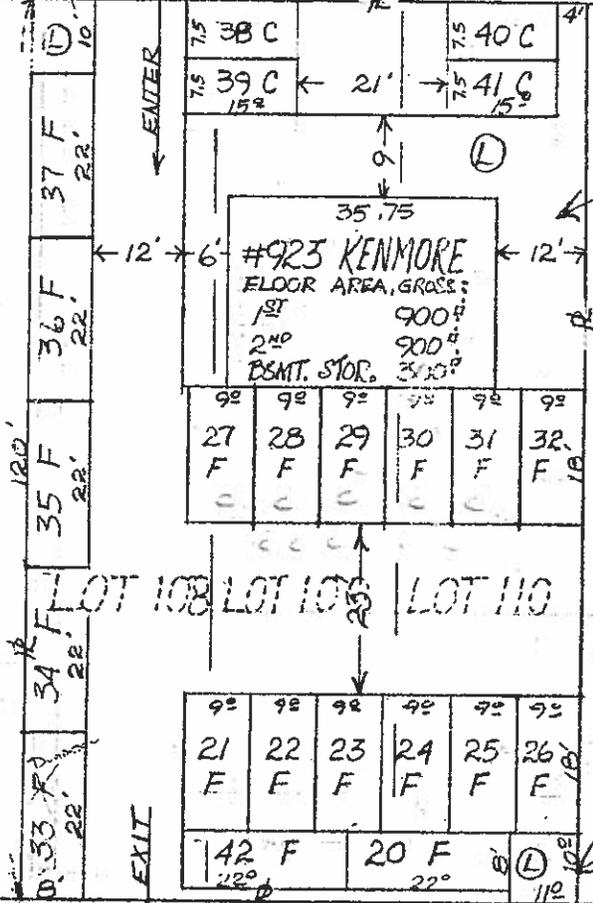


Space Plan For Second Floor

Scale: 1/8" = 1'-0"

NORTH KENMORE ST.

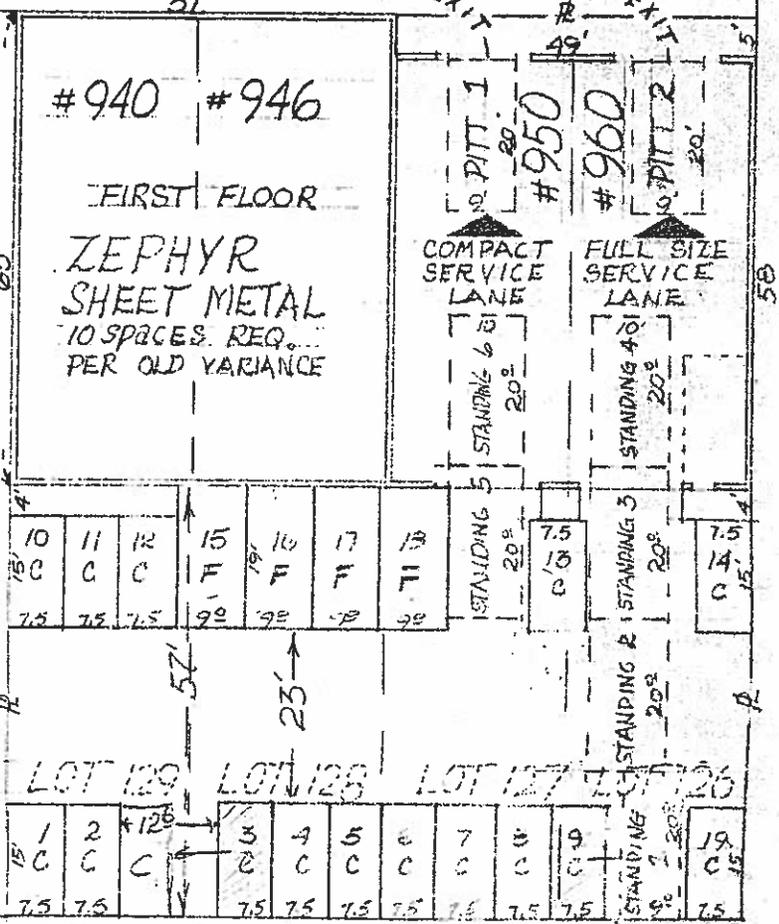
LANDSCAPE = 1133



WILSON BLVD.

PUBLIC ALLEY

PARKING CALCULATIONS FOR 923 KENMORE & 940-960 JACKSON	
923 KENMORE :	REQ. SP.
1 ST FL 900' : 250 =	3.6
2 ND FL 900' : 300 =	3.0
BSMT. ST. 300' : 300 =	1.0
#940 & 946 JACKSON	
1 ST FL: PER OLD VARIANCE :	10.0
2 ND FL: SEE ZONING ADMIN. CALCULATION FOR OCCUPANCY :	10.0
950 & 960 JACKSON	3.0
1 ST FL ~ 3 EMPLOYEES :	
2 ND FL - SEE USE PERMIT OR VAR :	10.0
TOTAL REQ. PARK	40.6



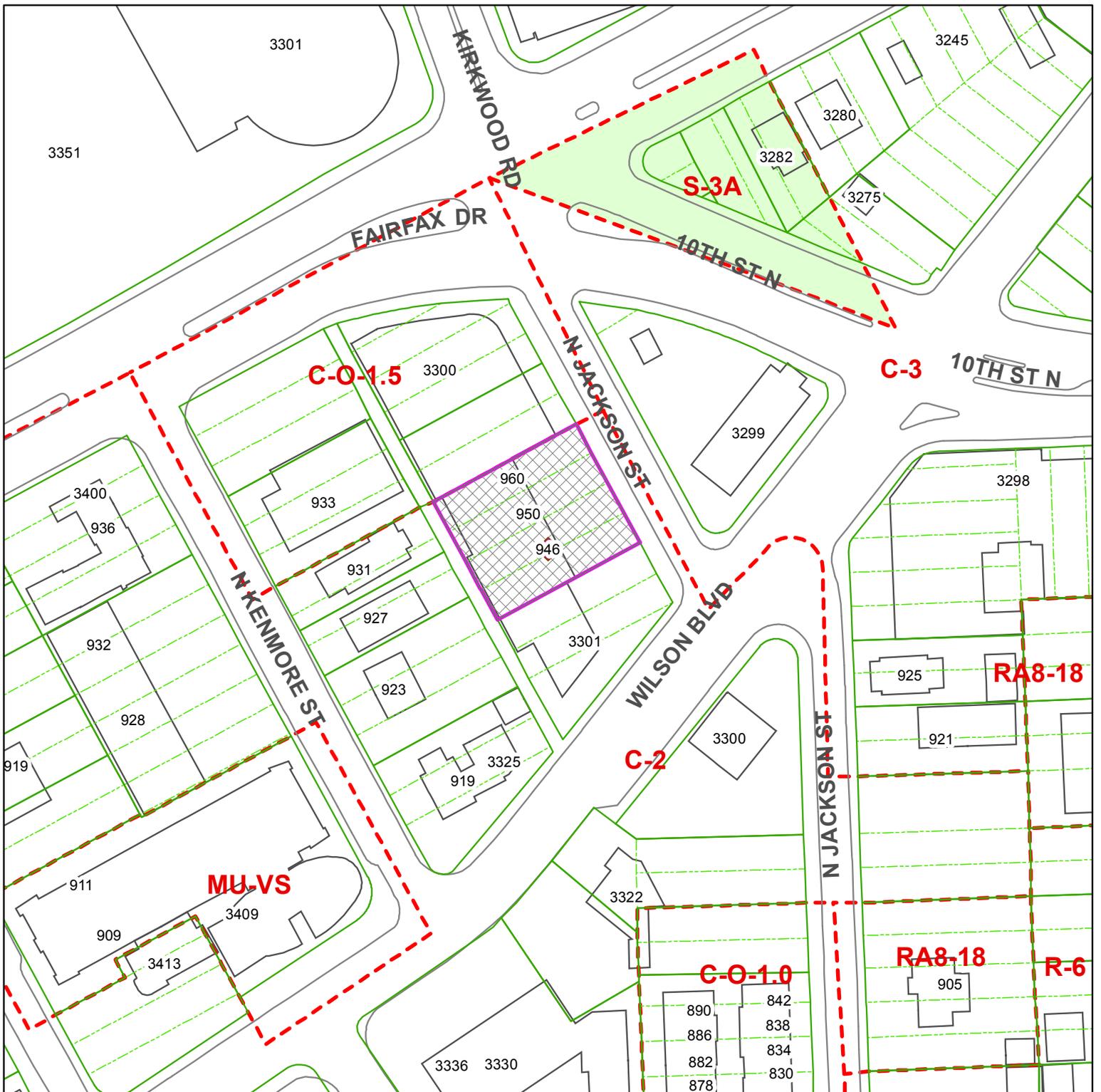
NORTH JACKSON ST. ONE WAY

ENTER



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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.