



ARLINGTON COUNTY, VIRGINIA

County Board Agenda Item Meeting of May 19, 2012

DATE: May 1, 2012

SUBJECT: SP #194 SITE PLAN AMENDMENT REVIEW for restaurant providing live entertainment and dancing and outdoor cafe in a public sidewalk easement at Mad Rose; located at 3100 Clarendon Boulevard (RPC# 19-002-007).

Applicant:

Mad Rose, Inc.
3100 Clarendon Blvd., PL-15
Arlington, Virginia 22201

C.M. RECOMMENDATION:

Adopt the attached ordinance to approve an amendment to SP #194 to renew live entertainment and dancing, and outdoor café at Mad Rose, subject to all previously approved conditions, with a County Board review in one (1) year (May 2013), an administrative review in six (6) months (November 2012) and with one (1) additional condition specifying that the uses are temporary and will expire in 2013 unless renewed by the County Board.

ISSUES: This is a one (1) year review of outdoor café seating, and a six (6) month review of live entertainment and dancing at Mad Rose in Clarendon. Violations of site plan conditions related to live entertainment have been identified.

SUMMARY: This is a one (1) year review of outdoor café seating located in a public sidewalk easement along Clarendon and Washington Boulevards, and a six (6) month review of live entertainment and dancing at Mad Rose. The Zoning Office has issued a Notice of Violation (NOV) to the applicant for noncompliance with Condition #4 of the site plan amendment pertaining to piping live entertainment to the outdoor café located in the plaza, and for having windows and doors open during the hours of live entertainment. In addition, the Virginia Alcoholic Beverage Control Board (ABC) has commented that the applicant has been cited for advertizing happy hour sales on their website, which is a violation of Condition #2 of the site

County Manager:

BMD/GA

County Attorney:

[Handwritten signatures]

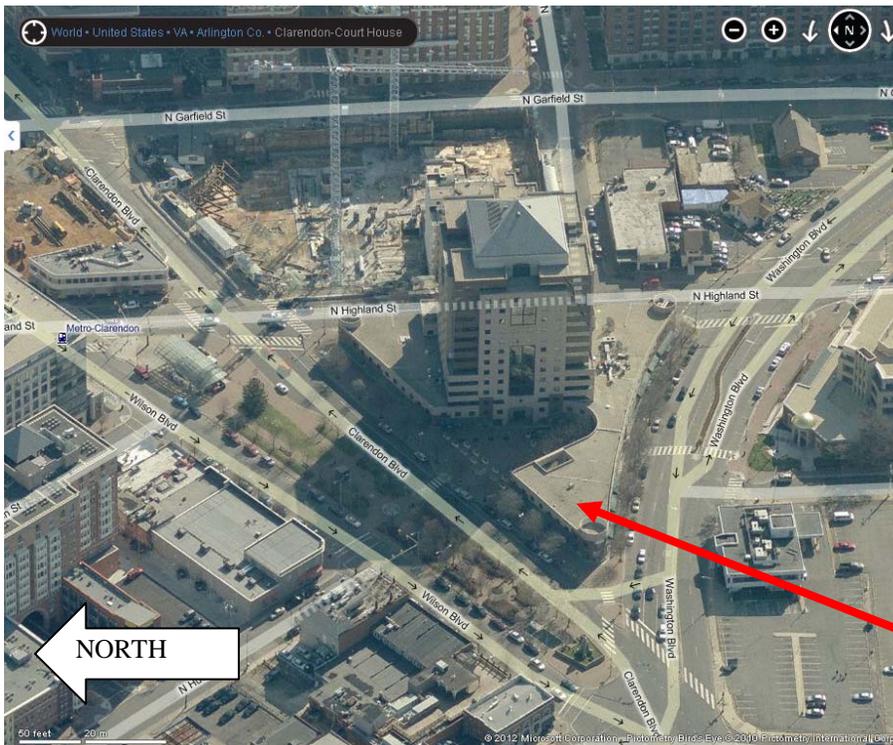
Staff: Matthew W. Pfeiffer, DCPHD, Planning

PLA-6184

3.

plan amendment for live entertainment. While issues have been identified, these violations have been corrected when brought to the applicant's attention. Staff believes the appropriate action is for the County Board to renew the site plan amendments with relatively short review periods to monitor the restaurant's operation. Therefore, staff recommends that the County Board adopt the attached ordinance to approve a site plan amendment to SP #194 to renew live entertainment and dancing, and an outdoor café at Mad Rose, subject to all previously approved conditions applicable only to the live entertainment and dancing and the outdoor café uses, with a County Board review in one (1) year (May 2013), an administrative review in six (6) months (November 2012) and with one (1) additional condition specifying that the uses are temporary and will expire in 2013 unless renewed by the County Board.

BACKGROUND: This is a one (1) year review of outdoor café seating located in the public sidewalk easement on Clarendon and Washington Boulevards at the Olmstead Building (3100 Clarendon Boulevard) for Mad Rose, and a six (6) month review of live entertainment and dancing at Mad Rose. Site Plan #194 (Olmstead Building, 3100 Clarendon Blvd.) was approved by the County Board in 1982. The site consists of a 14-story office tower with ground-floor retail uses in the building podium. The County Board approved a site plan amendment for outdoor seating for Mad Rose located in the public sidewalk easement along Clarendon and Washington Boulevards in May 2011, and approved a site plan amendment for live entertainment and dancing at Mad Rose in November 2011.



Source: Bing Maps

DISCUSSION: Since County Board approval (outdoor café seating—May 2011; live entertainment and dancing—November 2011):

Site Plan Conditions: The applicant was found to have been in violation of two (2) site plan conditions – Conditions #2 and 4 pertaining to live entertainment and dancing. The applicant was piping live music to the outdoor seating area in the patio, which is a violation of Condition #4. In addition, windows and doors were open. Condition #4 requires that all doors and windows be shut during the time of live entertainment, and that no live entertainment shall be piped outside of the building. The applicant has been sent a NOV for the violation of Condition #4. It has been determined that this issue has arisen due to a feature of the restaurant whereby glass panels can be removed separating the restaurant from the plaza seating area and bar. The applicant has been informed that removal of the panels during the time in which live entertainment is provided is a violation of Condition #4; the applicant has agreed to correct the issue. In addition to Condition #4, a violation of Condition #2 has been identified. Condition #2 requires the applicant to be compliant with all state and local requirements. The ABC Board is currently processing the applicant for advertizing drink specials on their website and on Twitter, which is a violation of their ABC license. There were no violations of site plan conditions pertaining to the outdoor seating use during the last review period.

Community Code Enforcement: The Code Enforcement Office has reported that there are no issues with the continuation of these uses.

Fire Marshal's Office: The Fire Marshal's Office has reported that there are no issues with the continuation of these uses.

Virginia Alcoholic Beverage Control Board (ABC): The ABC Board has commented that issues were identified related to the advertizing of drink specials; however the ABC Board agrees with the staff recommendation for continuation of the use.

Police Department: The Police Department has commented that issues were identified related to piping live music to the outdoor seating area in the building's plaza and for keeping windows and doors open during the time in which live entertainment was provided. The Police Department agrees with the staff recommendation to continue the use subject to a six (6) month administrative review.

Civic Associations: The site is located within the Clarendon-Courthouse Civic Association (CCCA). Staff contacted CCCA, the Lyon Village Civic Association, and the Lyon Park Civic Association for comments regarding these reviews. All three (3) civic associations have responded that they have no issues with the live entertainment or outdoor seating uses.

CONCLUSION: While issues related to the operation of live entertainment and dancing at this site have been identified (and NOVs sent to the applicant), these violations have not presented serious safety concerns, and have been corrected when brought to the applicant's attention. They appear to result from unanticipated situations and are not expected to be recurring. Staff therefore does not feel it necessary to deny renewal of the permit, but recommends that fairly

short review periods be set to ensure these issues are not repeated. In addition, the outdoor café seating serves to activate Clarendon and Washington Boulevards at this location. It is recommended that an administrative review be scheduled in six (6) months (November 2012) to monitor the operation of outdoor café seating and live entertainment at this location and to ensure correction of, and compliance with conditions with which the applicant has been noted to be in violation. Therefore, staff recommends the County Board adopt the attached ordinance to approve an amendment to SP #194 to renew the use permit for a restaurant with live entertainment and dancing, and outdoor café at Mad Rose, subject to all previously approved conditions with a County Board review in one (1) year (May 2013), an administrative review in six (6) months (November 2012) and with one (1) additional condition specifying that the uses are temporary and will expire in 2013 unless renewed by the County Board.

Site Plan Amendment Ordinance

WHEREAS, applications for Site Plan Amendments dated February 22, 2011 and September 12, 2011 for Site Plan #194, were filed with the Office of the Zoning Administrator: and

WHEREAS, as indicated in Staff Report[s] prepared for the May 19, 2012 County Board meetings and through comments made at the public hearing before the County Board, the County Manager recommends that the County Board renew the Site Plan Amendments subject to numerous conditions as set forth in the Staff Report[s]; and

WHEREAS, the County Board held a duly-advertised public hearing on the Site Plan Amendments on May 19, 2012 and finds, based on thorough consideration of the public testimony and all materials presented to it and/or on file in the Office of the Zoning Administrator, that the improvements and/or development proposed by the Site Plan as amended:

- Substantially complies with the character of master plans, officially approved neighborhood or area development plans, and with the uses permitted and use regulations of the district as set forth in the Zoning Ordinance; and
- Functionally relates to other structures permitted in the district and will not be injurious or detrimental to the property or improvements in the neighborhood; and
- Is so designed and located that the public health, safety and welfare will be promoted and protected.

NOW THEREFORE, BE IT ORDAINED that, as originally requested by an applications dated February 22, 2011 and September 12, 2011 for amendments to Site Plan #194, and as such application has been modified, revised, or amended to include the drawings, documents, conditions and other elements designated in Condition 37 below (which drawings, etc... are

hereafter collectively referred to as “Revised Site Plan Application”), for a Site Plan Amendment for live entertainment and dancing and outdoor café in a public sidewalk easement, for the parcel of real property known as RPC# 19-002-007, approval is granted and the parcel so described shall be used according to the Site plan as originally approved on March 23, 1982 and amended from time to time as shown in the records of the Office of Zoning administration, and as amended by the Revised Site Plan Application, subject to all previous conditions, and the following new condition:

37. The applicant agrees that live entertainment and dancing, and outdoor café seating in the public sidewalk easement permitted at Mad Rose at 3100 Clarendon Boulevard are temporary uses only that have been approved for a limited one (1) year period, and not longer. During the one year period, the uses are permitted subject to all site plan conditions, and subject to the same reviews that could otherwise be made of any site plan use. The applicant further agrees that approval for the uses will terminate after a period of one (1) year, on May 19, 2013, without further action by the County Board. The applicant agrees that it will cease use of the space for the purposes of live entertainment and dancing and outdoor café seating in the public sidewalk easement, and shall convert the space to another approved use, or fully vacate the space, on or before May 19, 2013. The applicant acknowledges and agrees that after May 19, 2013, it shall have no right to use the space for live entertainment and dancing purposes or outdoor café seating in the public sidewalk easement unless specific approval for those uses are obtained from the County Board. In addition to all other conditions of this site plan, the applicant specifically agrees that the live entertainment and dancing and outdoor café seating uses shall be subject to the following additional conditions:

- a. ~~1-~~The outdoor seating area is permitted on Clarendon Boulevard and Washington Boulevard as shown on the plans entitled “Outdoor Seating Plan (Mad Rose Restaurant),” dated April 17, 2011, revised through May 12, 2011, and attached to this report. The applicant agrees to maintain a minimum of eight (8) feet of clear sidewalk width along Clarendon Boulevard and a minimum of six (6) feet of clear sidewalk width along Washington Boulevard. Clear sidewalk width shall be measured from the outer surface of the removable barrier. The outdoor seating shall be limited to a maximum total seating capacity of 73 seats.
- b. ~~2-~~The applicant agrees that any use of umbrellas in the outdoor seating area shall not contain any signs or interfere with pedestrian movement along the sidewalk. No outdoor fixtures shall display any sign messages unless a sign permit has been approved by the Zoning Office.
- c. ~~3-~~The applicant agrees that all outdoor seating including tables, chairs, and

removable barriers, shall be removed from the sidewalk annually during the winter months (December, January, and February). No outdoor seating equipment shall be stored on the sidewalk.

- d. ~~4.~~The applicant agrees that the barrier, as depicted on the plan and as required by code, shall be installed so that it is not permanently affixed to the sidewalk and cannot easily be moved by patrons; however it shall be able to be removed by the applicant seasonally.
- e. ~~5.~~The applicant agrees that the site plan amendment for an outdoor café shall be reviewed by the County Board upon any change of tenancy of the subject space currently occupied by Mad Rose.
- f. ~~4.~~The applicant agrees that live entertainment is permitted only from 9 p.m. to 1:30 a.m., Thursday, Friday, and Saturday nights; and 9 p.m. to 12:30 a.m. Sundays through Wednesdays.
- g. ~~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).
- h. ~~3.~~The applicant agrees that on-site dedicated security shall be provided from 9:00 p.m. until closing on nights where bands or deejays are performing at the restaurant.. The on-site security may consist of “in house” staff, so long as that staff is dedicated to security only.
- i. ~~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.
- j. ~~5.~~The applicant agrees that all staff serving alcohol to customers shall have TIPS (Training for Intervention Procedures) certification.
- k. ~~6.~~The applicant agrees that dancing is not permitted until the applicant obtains a Dance Hall Permit from the Zoning Office.
- l. ~~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.

- m. ~~8.~~The applicant agrees to ensure that any patrons queuing outside should keep noise to a minimum.
- n. ~~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.
- o. ~~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.
- p. ~~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.
- q. ~~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.
- r. ~~13.~~The applicant agrees that the approval for live entertainment at 3100 Clarendon Boulevard is valid only for Mad Rose. 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:

July 8, 1995	Approved site plan amendment for live entertainment at La Cantinita Restaurant.
July 20, 1996	Approved site plan amendment for live entertainment at Blue-N-Gold Brewing.
July 19, 1997	Renewed site plan amendment for live entertainment at Blue-N-Gold Brewing for three (3) years.
March 14, 1998	Approved site plan amendment for a comprehensive sign plan for the Olmstead Building.
October 17, 1998	Continued a request for the Endependance Center of Northern Virginia to occupy ground floor space at 3100 Clarendon Blvd.
November 18, 1998	Approved request for the Endependance Center of Northern Virginia to occupy ground floor space at 3100 Clarendon Blvd.
July 22, 2000	Renewed site plan amendment for live entertainment for Mister Days for one (1) year.
December 18, 2000	Deferred site plane amendment for Mister Days to amend hours of live entertainment.
January 27, 2001	Approved site plan amendment for Mister Days to amend hours of live entertainment subject to a review in one (1) year.
January 26, 2002	Renewed site plan amendment for live entertainment at Mister Days for 10 months.
October 19, 2002	Renewed site plan amendment for live entertainment at Mister Days subject to a review in one (1) year.
October 18, 2003	Renewed site plan amendment for live entertainment at Mister Days subject to a review in one (1) year.
May 15, 2004	Deferred site plan amendment for Mister Days.

June 26, 2004	Approved site plan amendment for an outdoor café for Mister Days subject to a County Board review in October 2004.
October 2, 2004	Renewed site plan amendment for live entertainment and outdoor seating at Mister Days.
June 21, 2005	Deferred site plan amendment for SoBe.
October 18, 2005	Renewed site plan amendments for live entertainment for SoBe and live entertainment and outdoor seating for Mister Days, subject to a review in seven (7) months.
May 20, 2006	Renewed site plan amendments for SoBe and Mister Days.
May 17, 2008	Deferred site plan amendments for SoBe and Mister Days to the September 2008 County Board meeting.
September 16, 2008	Deferred site plan amendments for SoBe and Mister Days to the November 15, 2008 County Board meeting.
November 15, 2008	Renewed site plan amendments for SoBe and Mister Days subject to four (4) new conditions and with a County Board review in two (2) years (November 2010).
November 13, 2010	Renewed site plan amendments for SoBe and Mister Days with an administrative review in one (1) year and a County Board review in two (2) years (November 2012).
May 14, 2011	Approved site plan amendment for outdoor café seating at Mad Rose.
November 29, 2011	Approved live entertainment and dancing at Mad Rose.

Approved Conditions (for the Outdoor Seating –now included in new Condition #37):

1. The outdoor seating area is permitted on Clarendon Boulevard and Washington Boulevard as shown on the plans entitled “Outdoor Seating Plan (Mad Rose Restaurant),” dated April 17, 2011, revised through May 12, 2011, and attached to this report. The applicant agrees to maintain a minimum of eight (8) feet of clear sidewalk width along Clarendon Boulevard and a minimum of six (6) feet of clear sidewalk width along Washington Boulevard. Clear sidewalk width shall be measured from the outer surface of the removable barrier. The outdoor seating shall be limited to a maximum total seating capacity of 73 seats.
2. The applicant agrees that any use of umbrellas in the outdoor seating area shall not contain any signs or interfere with pedestrian movement along the sidewalk. No outdoor fixtures shall display any sign messages unless a sign permit has been approved by the Zoning Office.
3. The applicant agrees that all outdoor seating including tables, chairs, and removable barriers, shall be removed from the sidewalk annually during the winter months (December, January, and February). No outdoor seating equipment shall be stored on the sidewalk.
4. The applicant agrees that the barrier, as depicted on the plan and as required by code, shall be installed so that it is not permanently affixed to the sidewalk and cannot easily be moved by patrons; however it shall be able to be removed by the applicant seasonally.
5. The applicant agrees that the site plan amendment for an outdoor café shall be reviewed by the County Board upon any change of tenancy of the subject space currently occupied by Mad Rose.

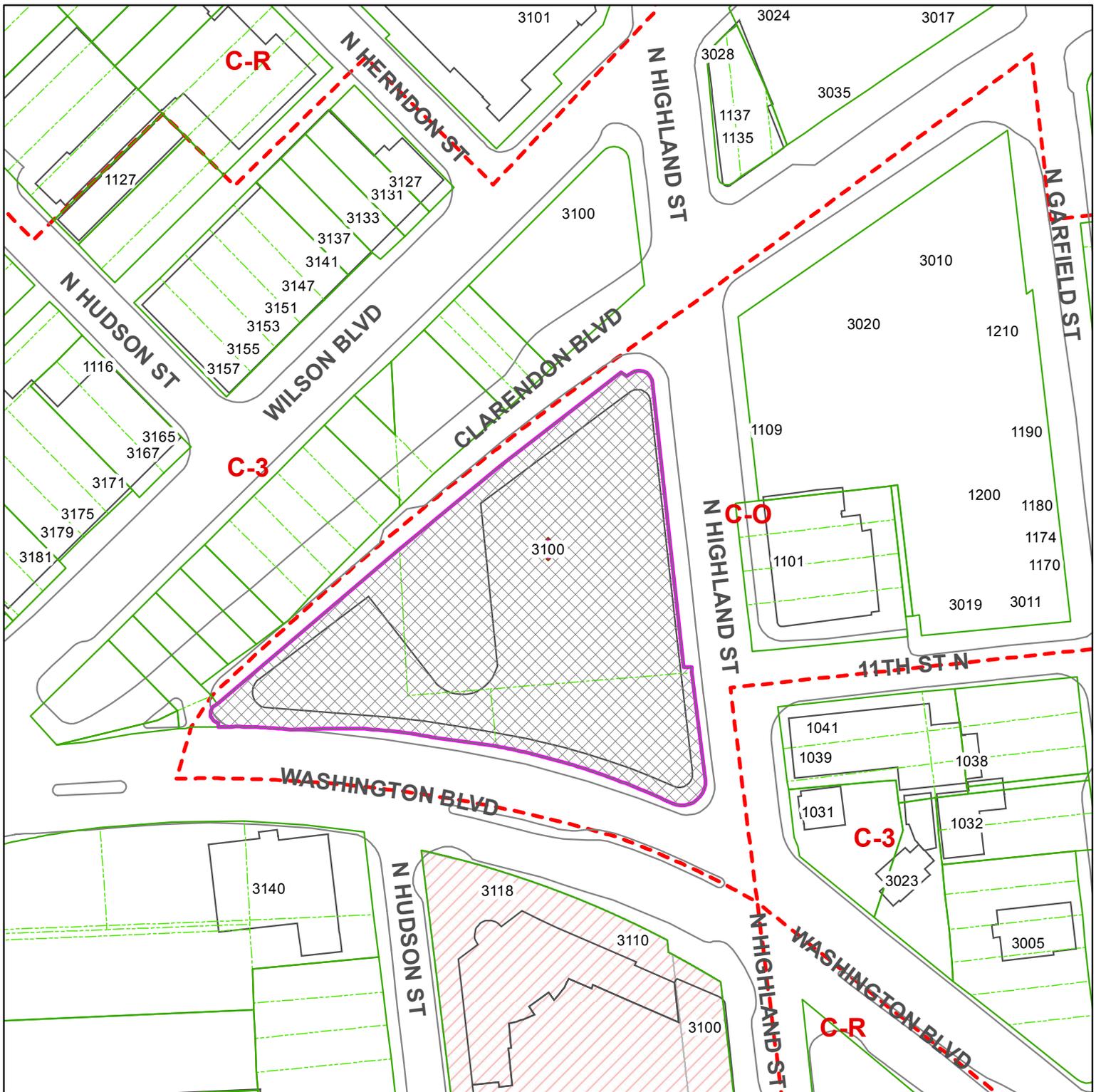
Approved Conditions (for the Live Entertainment-- now included in new Condition #37):

1. The applicant agrees that live entertainment is permitted only from 9 p.m. to 1:30 a.m., Thursday, Friday, and Saturday nights; and 9 p.m. to 12:30 a.m. Sundays through Wednesdays.
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 where bands or deejays are performing at the restaurant.. The on-site security may consist of “in house” staff, so long as that staff is dedicated to security only.

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 3100 Clarendon Boulevard is valid only for Mad Rose. Any other tenant/owner occupying the premises shall not be permitted to have live entertainment without prior approval of the County Board.



SP#194

3100 Clarendon Boulevard

RPC# 19-002-007



 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.