



ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item
Meeting of October 20, 2012**

DATE: October 12, 2012

SUBJECT: SP #346 SITE PLAN AMENDMENT REVIEW for food delivery operations at Paisano's Pizza; located at 3650 S. Glebe Road (RPC# 34-027-322).

Applicant:

Nashwa Kawkab
7670 Oak Field Ct.
Springfield, Virginia 22153

By:

Tad Lunger
Bean, Kinney & Korman, P.C.
2300 Wilson Boulevard, 7th Floor
Arlington, Virginia 22201

C.M. RECOMMENDATION:

Adopt the attached ordinance to renew the subject site plan amendment, with an administrative review in three (3) months (January 2013), and a County Board review in three (3) years (October 2015), subject to all previously approved conditions, and with one (1) additional condition specifying that the use is temporary and will expire in 2015 unless renewed by the County Board.

ISSUES: This is a one-year review of a site plan amendment for food delivery service for Paisano's Pizza, located in Potomac Yard. The applicant did not submit the driver safety plan and operational management plan as required by Conditions #79 and 80, respectively.

SUMMARY: This is a one (1) year review of a site plan amendment for a food delivery operation for Paisano's Pizza located in a retail bay at The Eclipse at Center Park development in Potomac Yard. During the review it was discovered that the applicant had failed to submit the driver safety plan required by Condition #79, as well as the operational management plan

County Manager:

BMD/GA

County Attorney:

CCW

Staff: Matthew W. Pfeiffer, DCPHD, Planning

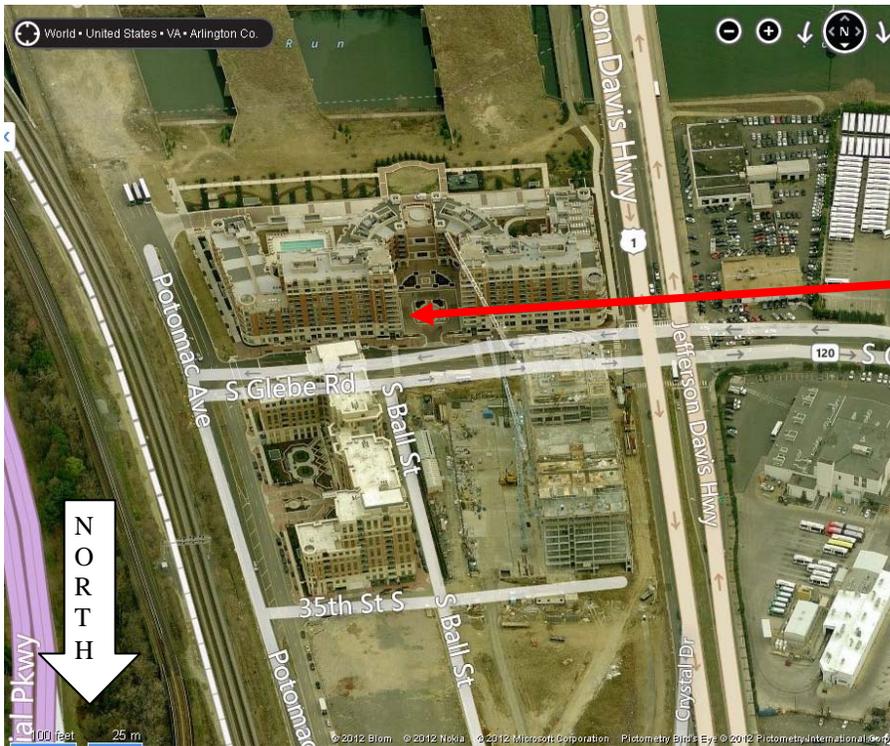
PLA-6289

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required by Condition #80. Despite these violations, the delivery service has operated successfully over the past year and no additional issues have been identified. The applicant has been made aware of the violations and has agreed to correct them within three (3) months of the County Board meeting. Staff is recommending an administrative review at that time. If it is determined that the applicant remains out of compliance with the subject conditions, the site plan amendment can be scheduled for a review by the County Board. Staff believes that the applicant has acted in good faith and failed to comply with the subject conditions due to a miscommunication on their part. Therefore, staff recommends adoption of the attached ordinance to renew the subject site plan amendment, with an administrative review in three (3) months, and a County Board review in three (3) years (October 2015), subject to all previously approved conditions, and with one (1) additional condition specifying that the use is temporary and will expire in 2015 unless renewed by the County Board.

BACKGROUND: The site plan amendment for food delivery service at Paisano’s was approved by the County Board in October 2011. The site plan amendment included conditions addressing driver safety and operational management, as well as use of parking spaces within the development for delivery loading.

The following provides additional information about the site and location:



Paisano’s Pizza (3650 S. Glebe Road)

Source: Bing Maps

DISCUSSION: The applicant has operated a delivery service for the past year. While the applicant has not submitted the driver safety and operational management plans required of them, no operational issues have been identified. The applicant has agreed to obtain approval of

the necessary material within three (3) months. No undue adverse impacts will result from the continuation of this use.

Since site plan amendment approval (October 2011):

Site Plan Conditions: Violations of Conditions #79 and 80 have been identified. Condition #79 requires the applicant to submit a plan detailing the driver safety course to be taken by all delivery drivers, and to identify routes used by drivers. The applicant has not identified a course or submitted the subject plan, nor have drivers completed such a course. Condition #80 requires the applicant to submit a plan detailing responses to operational issues such as noise or improper driving by employees; the applicant has not submitted this plan. Despite these violations, staff has not identified any issues with the operation of the delivery service, which has been operating for one (1) year. The applicant is in compliance with all other conditions. Staff supports renewing this site plan amendment given the applicant has agreed to submit the required plans and train drivers within three (3) months of renewal.

Community Code Enforcement: The Code Enforcement Office reports that there are no issues regarding the continuation of this use.

Police Department: The Police Department reports that there are no issues regarding the continuation of this use.

Fire Marshal's Office: The Fire Marshal's Office reports that there are no issues regarding the continuation of this use.

Neighborhood: The subject site is not located within the boundaries of a civic association. Staff contacted The Eclipse at Center Park condominium manager for comment. The condominium manager expressed that they were not aware of any concerns from residents regarding the subject use.

CONCLUSION: Staff supports the renewal of this site plan amendment despite violations of the driver safety plan and operational management plan conditions. All County agencies have reported that the applicant has operated appropriately. Staff believes the applicant to have acted in good faith and not to have understood what was required of them in terms of providing the safety and management plans. The applicant has agreed to work with staff to complete the requirements of the site plan, including ensuring drivers complete driver safety courses. It is recommended that an administrative review be conducted within three (3) months to ensure compliance. Should it be found that the violations identified in this review still exist in three (3) months, the site plan amendment can be scheduled for an out-of-cycle County Board review. Given that no issues with the operation have been identified over the past year, there will be no undue adverse impacts resulting from renewal of this site plan amendment. Therefore, staff recommends adoption of the attached ordinance to renew the subject site plan amendment with an administrative review in three (3) months and a County Board review in three (3) years (October 2015) subject to all previously approved conditions, and with one (1) additional condition specifying that the use is temporary and will expire in 2015 unless renewed by the County Board.

Site Plan Amendment Ordinance

WHEREAS, an application for a Site Plan Amendment dated August 4, 2011, for Site Plan #346, was filed with the Office of the Zoning Administrator: and

WHEREAS, as indicated in the Staff Report(s) provided for the October 20, 2012, County Board meeting and through comments made at the public hearing before the County Board, the County Manager recommends that the County Board approve the Site Plan Amendment subject to numerous conditions as set forth in the Staff Report; and

WHEREAS, the County Board held a duly-advertised public hearing on that Site Plan Amendment on October 15, 2011, 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 modified as follows:
 - Food delivery service for a restaurant; 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 application dated August 4, 2011, for Site Plan #346, for a Site Plan Amendment for food delivery service, for the parcel of real property known as 3650 S. Glebe Road Commercial Unit #3 (RPC#34-027-322) approval is granted and the parcel so described shall be used according to the Site Plan Amendment Application, with an administrative review in three (3) months (January 2013), and a County Board review in three (3) years (October 2015), subject to all previously approved conditions, and with one (1) additional condition specifying that the use is temporary and will expire in 2015 unless renewed by the County Board.

83. The applicant agrees that the food delivery use permitted at 3650 S. Glebe Road is a temporary use that has been approved for a limited three (3) year period, and not longer. During the three year period, the use is 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 use will terminate after a period of three (3) years, on October 20, 2015, without further action by the County Board. The applicant agrees that it will cease use of the approximately 1,350 square foot space for the purposes of food delivery, and shall convert the space to another approved use, or fully vacate the space, on or before October 20, 2015. The applicant acknowledges and agrees that after October 20, 2015, it shall have no right to use the 1,350 square foot space for food delivery purposes unless specific approval for that use is obtained from the County Board.

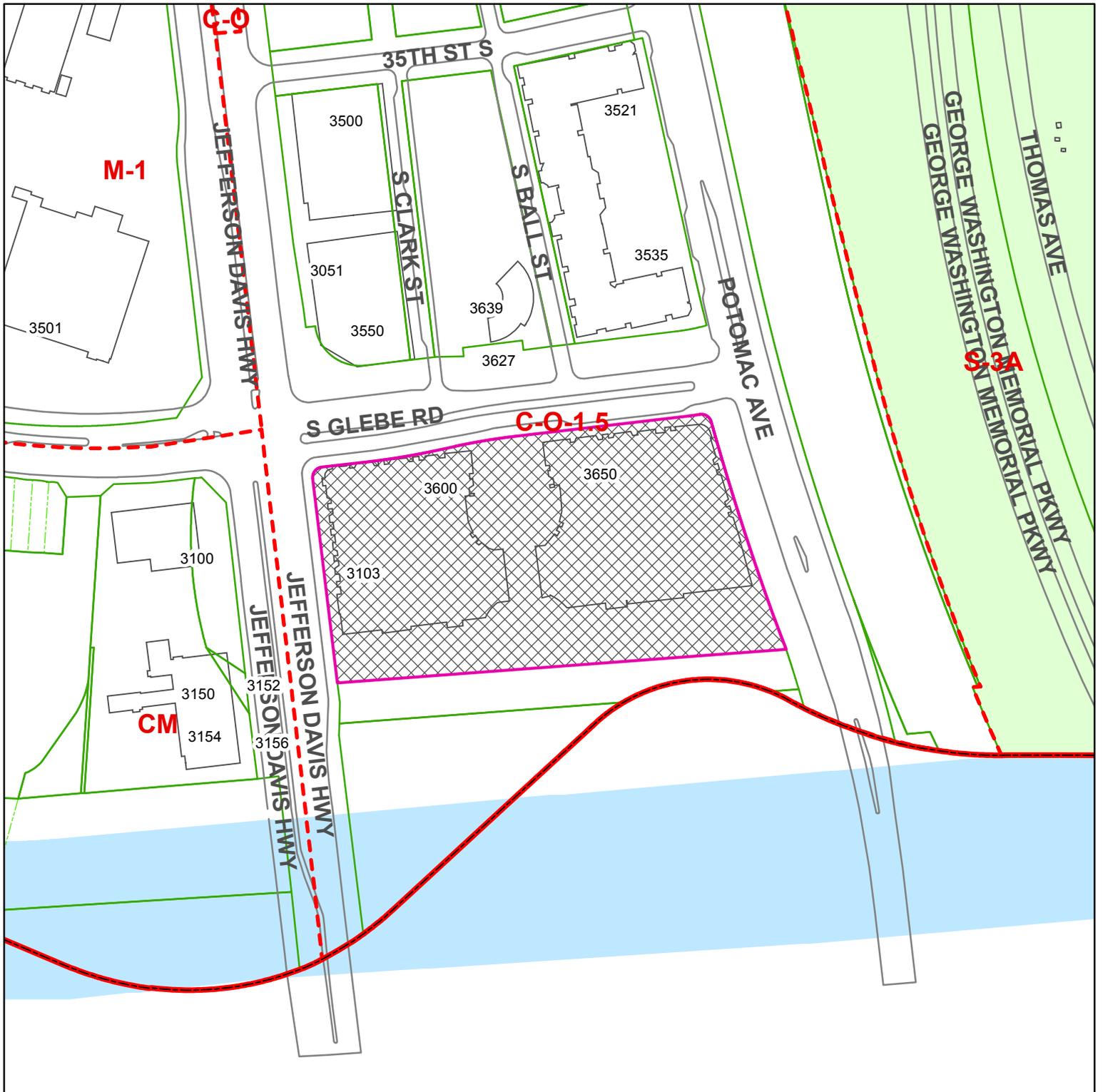
PREVIOUS COUNTY BOARD ACTIONS:

September 16, 2006	Approved comprehensive sign plan for 3600 and 3650 S. Glebe Road.
November 14, 2006	Approved amendment to comprehensive sign plan for 3600 and 3650 S. Glebe Road.
April 28, 2009	Approved site plan amendment for live entertainment at McGinty's Public House for one (1) year.
April 24, 2010	Renewed site plan amendment for live entertainment at McGinty's Public House for three (3) years.
October 15, 2011	Approved site plan amendment for food delivery service for Paisano's Pizza for one (1) year.

Previously Approved Conditions (For Paisano's):

78. The applicant (applicant shall mean the applicant, owner and all successors and assigns) agrees that the hours of operation of the food delivery service (using an automobile) shall be limited to 11:00 a.m. to 10:00 p.m. Sunday through Thursday, and 11:00 a.m. to 11:00 p.m. Friday, Saturday, and the eve before the following federal holidays: Memorial Day, Independence Day, Labor Day, and News Years Day.
79. The applicant agrees to develop and implement a delivery and driver safety plan and to obtain the County Manager's approval of such a plan before any food delivery service can begin. The plan shall include at a minimum: identification of a driver safety course, completion of which will be required of all drivers employed by the applicant before they begin delivery service; a routing plan including maps for delivery vehicles, which will show entry and exit routes from the site; and an outline of the contents of the course. The applicant understands and acknowledges that the County Board has found the exception for this use to be justified only because the applicant has represented that the use will make deliveries by vehicles using only the commercial frontages and streets to the maximum extent possible.
80. The applicant agrees to conduct in-store and on-site business operations so as not to adversely impact adjacent properties through excessive noise, improper trash bin usage, objectionable odors, and inappropriate delivery vehicle and supply truck driver activities. The applicant shall develop, and obtain approval from the Zoning Administrator of, a plan for resolution of operational problems to ensure that they are resolved immediately. This plan shall include, but is not limited to problems related to excessive noise, inappropriate driving behavior and late night/early morning supply deliveries. The approved plan shall be implemented throughout the life of the delivery service use. The applicant agrees that the effectiveness of this plan in eliminating operational problems shall determine whether the use permit is continued at the one (1) year review.
81. The applicant agrees that the maximum number of delivery automobiles that may be used in the business at any one time is six (6) vehicles. The applicant agrees that the delivery vehicles will not be parked on the street, and shall not park or idle within the piazza vehicular turnaround. The applicant further agrees that parking and loading of delivery vehicles shall occur in the ground floor of the parking garage adjacent to the restaurant space, and that the three (3) spaces adjacent to the restaurant's rear access shall be marked for such purposes. The applicant further agrees to develop, and obtain approval from the County Manager (as meeting the requirements of this condition), a plan showing parking and loading spaces for Paisano's Pizza. The applicant agrees to obtain such approval prior to the implementation of delivery service, and to implement the approved plan throughout the life of the delivery service. Should the applicant demonstrate that four (4) parking spaces are available for use by Paisano's Pizza within the parking garage adjacent to the rear access to the restaurant space, and marked as such, the applicant may request approval from the Zoning Administrator to allow a maximum of eight (8) delivery automobiles to be used at any one time.

82. The applicant agrees to identify an on-site liaison who shall be available during all hours of operation to receive and respond to community concerns. The name and telephone number of the liaison shall be sent to the President of the Eclipse Condominium Association and the Zoning Administrator.



SP# 346

3650 S. Glebe Rd.

RPC 34-027-322

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

Department of Community Planning, Housing and Development



 Case
Location(s)
Scale: 1:2,400

Planning Division