



ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item
Meeting of September 8, 2007**

DATE: August 21, 2007

SUBJECT: SP #276 SITE PLAN AMENDMENT REVIEW, for live entertainment located at 801 N. Quincy St. (Thai Terrace) (RPC #14-043-025, -028)

Applicant:

Thai Terrace, L.L.C.

By:

Timothy S. Sampson, Attorney
Walsh, Colucci, Lubeley, Emrich, & Walsh, PC
2200 Clarendon Boulevard, Suite 1300
Arlington, VA 22201

C.M. RECOMMENDATION:

Continue subject to previous site plan conditions with a review in three (3) months (December 2007).

ISSUES: None.

SUMMARY: This is a site plan amendment review for live entertainment inside the Thai Terrace restaurant in Ballston. The applicant has operated in compliance with most of the site plan conditions; however, there have been several State ABC violations involving serving alcohol to underage persons and persons already intoxicated. An ABC hearing, scheduled for September 2007, is pending to resolve the case. Another ABC violation involving alcohol sales after hours was dismissed; the ABC is appealing the dismissal. Therefore, staff is recommending a County Board review in three (3) months pending the resolution of these cases and to more closely monitor compliance with the site plan conditions.

BACKGROUND: The subject use permit was approved in September 2003 for live entertainment inside the existing restaurant from 6 p.m. to 2 a.m. seven (7) days a week. No more than two (2) musicians perform at any given time. The last use permit review in

County Manager: _____

Staff: Colin Dentel-Post

PLA-4757

September, 2004 found the applicant operating in compliance with the site plan conditions. There had been no complaints or violations at that time.

DISCUSSION: Since the last review, the State ABC reported that there have been several violations on the premises. Four violations occurred in December 2006, involving serving alcohol to underage persons and to persons already intoxicated. An additional violation was reported in February 2007 involving serving alcohol after hours, but was dismissed at the hearing. The ABC is appealing the dismissal. Pending the ultimate result of this case, the ABC may request at the next review (December 2007) that the live entertainment hours be reduced to avoid the temptation of selling alcohol after 2 a.m. The applicant continues to operate in compliance with other site plan conditions and regulations.

Since the last review (September 18, 2004):

Site Plan Conditions: The applicant was found in violation of condition #5, requiring that the applicant meet all requirements of the State ABC.

Community Code Enforcement: There have been no reported complaints or violations.

Fire Marshal's Office: The Fire Marshal's Office did not report any concerns or violations.

Police Department: The Police Department reported that there have been no problems at the site.

State ABC: The ABC reported that on December 3, 2006, four violations were found in the restaurant: two incidents of serving alcohol to persons under 21 years of age and two incidents of serving alcohol to persons already intoxicated. The violations will result in an ABC board hearing in September 2007. Another violation occurred in February 2007, involving one incident of serving alcohol after hours. This violation was dismissed at the ABC hearing, but the dismissal is currently under appeal.

Civic Associations: The Ballston-Virginia Square Civic Association and the Ashton Heights Civic Association were notified of the upcoming use permit review. To date, staff has received no comments from either Association.

Private/Public Partnership: The Ballston-Virginia Square Partnership was notified of the upcoming use permit review. To date, staff has received no comments from the Partnership.

CONCLUSION: None of the reported ABC violations have been resolved, and the pending resolution of these cases warrants close monitoring. Therefore, staff recommends that the site plan amendment for live entertainment be renewed, subject to all previous conditions, with a County Board review in three (3) months (December 2007).

PREVIOUS COUNTY BOARD ACTIONS:

- March 24, 1990 Approved a rezoning from “C-2” Service Commercial-Community Business District to “R-C” Apartment Dwelling and Commercial District.
- March 10, 1993 Extended the term of the site plan to April 3, 1993, and deferred to April 3, 1993 a site plan amendment request to amend Condition #47 to extend the term of the site plan for three years and to amend Condition #48 to modify the timing of the donation for acquisition of right-of-way at the corner of 9th Street North and North Quincy Street
- April 3, 1993 Extended the term of the site plan to May 15, 1993, and deferred to May 15, 1993 the site plan amendment request as described above.
- May 15, 1993 Extended the term of the site plan to May 15, 1996, and amended Condition #47 to extend the term of the site plan for three years and Condition #48 to modify the timing of the donation for acquisition of right-of-way at the corner of 9th Street North and North Quincy Street.
- May 11, 1996 Amended Condition #47 to extend the term of the site plan for three years and Condition #48 to modify the timing of the donation for acquisition of right-of-way at the corner of 9th Street North and North Quincy Street.
- July 14, 1999 Approved site plan amendment request (SP #276) to amend Condition #47 to extend the term of the site plan approval for three additional years (from May 15, 1999 to May 15, 2002), to modify Condition # 48 regarding acquisition of portions of outparcel and associated right-of- way improvements, and to add the standard subdivision conditions to the site plan.
- May 17, 2002 Approved the site plan amendment request (SP #276) to permit installation of two (2) back-lit roof-

top building identification signs with a total sign area of 22.0 square feet on the south and the west elevations of the Quincy Crossing office building, approximately 85 feet above ground, subject to the condition of the staff report.

September 13, 2003

Approved the site plan amendment request (SP #276) to permit live entertainment in an existing restaurant, subject to the conditions of the staff report, with a review in one (1) year (September 2004).

September 18, 2004

Renewed the site plan amendment request (SP #276) to permit live entertainment in an existing restaurant, subject to all previous conditions, with a review in three (3) years (September 2007).

April 22, 2006

Deferred the site plan amendment request (SP # 276) to May 20, 2006 for two (2) additional rooftop signs, for a total of four (4) rooftop signs.

May 20, 2006

Denied the site plan amendment request (SP # 276) to May 20, 2006 for two (2) additional rooftop signs, for a total of four (4) rooftop signs.

Approved Conditions:

1. The applicant agrees to limit live entertainment to between the hours of 6 p.m. and 2 a.m., Monday through Sunday. There shall be no customer dancing associated with the live entertainment.
2. The applicant agrees to keep the front door and the side door near the live entertainment area closed after 9 p.m. with the exception of entry, egress, and other intermittent uses.
3. The applicant agrees that music resulting from live entertainment shall comply with the limits established in the County Noise Ordinance.
4. The applicant agrees not to pipe music to the outside, including the outdoor seating area, during the hours of live entertainment.
5. The applicant agrees that all requirements of County and State Ordinances, the Environmental Health Bureau, the Fire Marshal, the Police Department and the Alcohol Beverage Control Board shall be met.
6. The applicant shall designate a community liaison to coordinate with nearby residents and neighbors to address concerns that may be related to the live entertainment. The name and telephone number of the liaison shall be submitted by the applicant to the Zoning Administrator, the Ballston-Virginia Square Civic Association, and the Ballston-Virginia Square Partnership.