



ARLINGTON COUNTY, VIRGINIA

County Board Agenda Item Meeting of June 17, 2008

DATE: June 2, 2008

SUBJECT: U-2827-94-1 USE PERMIT REVIEW of live entertainment at 5104 Wilson Boulevard (El Sabroso) (RPC #13-028-043).

Applicant:

Pedro and Nancy Nuñez
Karoline Enterprises, Inc.
5104 Wilson Boulevard
Arlington, Virginia 22205

C.M. RECOMMENDATION:

Renew, subject to all previous conditions, three (3) new conditions, and one (1) amended condition, with an administrative review in one (1) year (June 2009) and a County Board review in five (5) years (May 2013).

ISSUES: This is a review of a use permit for live entertainment and no violations of the use permit conditions have been identified. A citizen has expressed concerns related to the live entertainment use and conditions have been added to address these concerns.

SUMMARY: The subject use permit for live entertainment was last renewed by the County Board in May 2003. During the scheduled review a citizen adjacent to the subject property expressed a concern about the noise associated with the live entertainment use. Staff commenced an investigation and found no violations to the use permit conditions or noise ordinance. However, staff proposes new Conditions #4, #5, and #6 to address the concerns raised by the nearby resident, and revised Condition #3 to provide liaison contact information to adjacent property owners. Therefore, it is recommended that the use permit for live entertainment be renewed, subject to all previous conditions, three (3) new conditions, and one (1) amended condition, and with an administrative review in one (1) year (June 2009) and a County Board review in five (5) years (May 2013).

BACKGROUND: This is a review of a live entertainment use permit at a restaurant at 5104 Wilson Boulevard, known as El Sabroso. This use permit for live entertainment was originally approved by the County Board in December 1994. In 1999, the County Board approved an expansion of live entertainment to Thursdays between 6 p.m. and 12 midnight, Fridays between 6 p.m. and 1 a.m., Saturdays between 7 p.m. and 1:30 a.m., and on Sundays between 4 p.m. and

County Manager: _____

Staff: Roberto Ruiz, DCPHD, Planning Division

PLA-4991

12 midnight. After the County Board approved the expanded hours, subsequent County Board reviews occurred in 2000, 2001, and 2003 and an administrative review was done in 2002 at which no issues were found.

DISCUSSION: During the review of the subject use for live entertainment for a May 2008 County Board review, a citizen of the Bluemont Civic Association, whose house is adjacent to the use, expressed concern with noise, overcrowding, and waste management by the applicant (e-mail is attached). The citizen's house adjoins the service area of the restaurant located behind the restaurant. As a consequence, staff recommended that the use permit review be deferred for one (1) month (June 2008) to permit time for an investigation of the citizen's concerns.

In the course of the subsequent investigation, the Police and Fire Departments were contacted for comments. The Fire Department reported that their only record relating to the restaurant were medic response on February and April 2008 and stated that these calls do not rise to a level where the Fire Department would not support continuance of the use. The Police Department reported that they have not received any noise complaints relating to the use.

In addition, the Community Code Enforcement office dispatched an inspector to investigate the noise and waste management concerns. The Community Code Enforcement inspector conducted three (3) noise readings of the live entertainment during a period between 10:30 p.m. and 11:30 p.m., on May 17, 2008, and found them all to be below the maximum 65 decibel threshold. The readings were done on a Sunday night since this is when the citizen communicated the alleged noise nuisance was most acute. A map showing the location of the noise readings and the inspector's letter of findings are attached.

The inspector also notified the applicant of the restaurant waste disposal concern expressed by the Bluemont resident. The applicant had scheduled trash pick-up once a week, but voluntarily contracted for trash pick-up to occur twice a week, on Mondays and Fridays, when made aware of the concern. In addition, no evidence of overcrowding was found.

Since the Last Review (May 1, 2003)

Use Permit Conditions: The live entertainment use operates in compliance with the approved use permit conditions.

Community Code Enforcement: The Code Enforcement Office found no violation to Arlington County codes.

Police Department: The police department reports no issues regarding the continuation of this use.

Fire Marshal's Office: The Fire Marshal's Office reports no substantive issues regarding the continuation of this use. On two occasions, medics responded to the subject location.

Civic Associations: The Bluemont Civic Association president forwarded concerns expressed by a civic association member whose property adjoins the subject use (see attached).

CONCLUSION: The subject use permit for live entertainment has operated in compliance with approved use permit conditions. A Bluemont Civic Association resident whose property adjoins the subject restaurant expressed concern about the noise associated with the use, as well as overcrowding and waste disposal issues. The investigation did not reveal any violations to the use permit conditions, the noise ordinance, or the other concerns. In addition, the Police Department reported no issues with the use and the Fire Department communicated no substantive issues with the continuance of the use. In order to ameliorate the concerns expressed by the Bluemont resident, the applicant has agreed to abide by three (3) new conditions and an amendment to an existing condition restricting access to the restaurant's service area, service door, and establishing an on-site liaison during hours of business operation. Therefore, staff recommends renewal of the use permit for live entertainment, subject to all previous conditions, the following three (3) new conditions, and one (1) amended condition, and with an administrative review in one (1) year (June 2009) and a County Board review in five (5) years (May 2013).

AMENDED CONDITION:

3. The applicant shall designate 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 President of the Bluemont Citizens Association and the adjacent property owners.

NEW CONDITIONS:

4. The applicant agrees that the door to the rear of the building shall be limited to deliveries, trash removal, and emergency evacuation only. The applicant further agrees that there shall be no entry into or exit from the establishment permitted from this rear doorway by patrons.
5. The applicant agrees that customer parking shall not be permitted behind the restaurant.
6. The applicant agrees that waste removal of dumpsters is to occur a minimum of twice a week.

PREVIOUS COUNTY BOARD ACTIONS:

- December 10, 1994 Approved use permit (U-2827-94-1) for live entertainment, subject to conditions and with a review in one year (December 1995).
- December 9, 1995 Continued use permit (U-2827-94-1) for live entertainment, subject to all previous conditions and with a review in three years (December 1998).
- December 12, 1998 Continued use permit (U-2827-94-1) for live entertainment, subject to all previous conditions and with a review in six (6) months (June 1999).
- June 12, 1999 Continued use permit (U-2827-94-1) for live entertainment, subject to all previous conditions and with a review in two (2) months (August 1999).
- August 14, 1999 Deferred review and use permit amendment (U-2827-94-1) for live entertainment, with review in three (3) months (November 1999).
- November 13, 1999 Continued use permit (U-2827-94-1) for live entertainment, subject to all previous conditions and amending condition #1, permitting live entertainment Thursdays 6:00 p.m.–12:00 a.m. midnight; Fridays 6:00 p.m.–1:00 a.m.; Saturdays 7:00 p.m.–1:30 a.m.; and Sundays 4:00 p.m.–12:00 a.m. midnight, and with a review in six (6) months (May 2000).
- May 20, 2000 Continued use permit (U-2827-94-1) for live entertainment in an existing restaurant with a review in one (1) year (May 2001).
- May 10, 2001 Continued use permit (U-2827-94-1) for live entertainment in an existing restaurant with an administrative review in one (1) year (May 2002) and a review by the County Board in two (2) years (May 2003).
- May 1, 2003 Continued use permit (U-2827-94-1) for live entertainment in an existing restaurant with a review by the County Board in five (5) years (May 2008).

May 17, 2008

Deferred use permit (U-2827-94-1) review for live entertainment by the County Board for one (1) month (June 2008).

Approved Conditions:

1. Live entertainment shall be permitted on Thursdays between 6:00 p.m. and 12:00 midnight; Fridays between 6:00 p.m. and 1:00 a.m.; Saturdays between 7:00 p.m. and 1:30 a.m.; and on Sundays between 4:00 p.m. and 12: 00 midnight. Music shall be in the form of singers and musicians playing string instruments.
2. No dancing shall occur without the applicant first obtaining a valid dance hall permit.