DATE: June 29, 2005

SUBJECT: SP #194 SITE PLAN AMENDMENT for live entertainment and dancing; premises known as 3100 Clarendon Boulevard (Metro City Inc./SoBe Seafood Co.) (RPC #19-002-007).

Applicant:
M. Tiffany Lee

By:
M. Tiffany Lee
P.O. Box 100069
Arlington, Virginia 22201

C.M. RECOMMENDATION:

Approve live entertainment and dancing inside and outside the restaurant, subject to the hours and the conditions in the staff report and a review by the County Board in three (3) months (October 2005).

ISSUE: None.

SUMMARY: This is a site plan amendment request for live entertainment and dancing inside the restaurant and outside in the outdoor café, of an existing restaurant in Clarendon known as SoBe Seafood Co. The La Cantinita restaurant previously occupied the same space and also offered live entertainment and dancing inside the restaurant, but not outside. The SoBe restaurant original request was for live entertainment from the hours of 10 a.m. until 2 a.m., Sunday through Saturday. The applicant subsequently requested that live entertainment and dancing be allowed both inside and outside of the restaurant during the same hours except the dancing would not begin until 5 p.m. on Saturday and Sunday. Staff recommends and the applicant has agreed that the hours requested for the live entertainment inside the restaurant be as follows: 5 p.m. until 12:30 a.m., Monday through Thursday; 5 p.m. until 1:30 a.m., Friday; 10 a.m. to 1:30 a.m., Saturdays; 10 a.m. until 12:30 a.m., Sundays; and 5 p.m. until 1:30 a.m. on the eve of all legal U.S. holidays. Staff recommends and the applicant has agreed that the hours requested for the live entertainment outside the restaurant be as follows: 5 p.m. until 12:00 a.m., Thursday and Friday; 10 a.m. to 12:00 a.m., Saturdays; 10 a.m. to 3 p.m. Sundays; and 5 p.m. until 12:00 a.m. on the eve of all legal U.S. holidays. Staff recommends and the applicant has agreed that the hours for dancing inside and outside be the same as the hours for live entertainment inside and outside respectively, except dancing would not begin before 5 p.m. any
day. It is recommended that the outdoor live entertainment and dancing be approved as an experiment for a limited time until the review by the County Board in October 2005. At that time Staff would review the results and advise the Board who could decide whether to continue the outdoor entertainment and dancing. Live entertainment is consistent with the goals of the Retail Action Plan and the Clarendon Sector Plan. The applicant has agreed to conditions intended to mitigate impacts, including participation in the Neighborhood Advisory Group. Therefore, it is recommended that this site plan amendment for live entertainment and dancing be approved for inside the restaurant and temporarily outside in the café, during the hours and with the conditions in the staff report. It is further recommended that the permit be reviewed by the County Board in three (3) months (October 2005) to correspond to the reviews of live entertainment at the other Clarendon restaurants.

**BACKGROUND:** The SoBe Seafood Co. restaurant has operated since July 2003 at this location adjacent to the plaza at 3100 Clarendon Boulevard across from the Clarendon Metro station. The restaurant contains approximately 3,400 square feet and has a seating capacity of 160 persons. The applicant is proposing live entertainment both inside and outside of the restaurant consisting of a DJ, small combos, small jazz groups, an individual guitarist or pianist, or similar style entertainment to serve as background music for customers during weekend brunch and daily dinner hours while maintaining the restaurant’s “sophisticated ambiance,” plus music for dancing during the evening hours or during private parties. The site plan amendment consideration was deferred from June 18, 2005 to July 9, 2005, because the applicant requested to add outdoor entertainment, and dancing inside and outside to the original request.

**Site:** The site is located at 3100 Clarendon Boulevard and is generally surrounded by commercial, office and retail uses. The restaurant is one of the retail uses fronting on the plaza adjoining a fourteen (14) story office building. There is no residential use in the building where the restaurant is located or in the immediate vicinity.

**Zoning:** The site is zoned “C-O” Commercial Office Building, Hotel and Multiple-Family Dwelling Districts.

**Land Use:** The site is designated on the General Land Use Plan as “High” Office-Apartment-Hotel (Office Density 3.8 F.A.R. allow, Apartment Density up to 4.8 F.A.R. allow, Hotel Density up to 3.8 F.A.R. allow).

**Neighborhood:** The site is located in the Clarendon-Courthouse Civic Association area. The Association, along with the Clarendon Alliance and Lyon Village Citizens Association, was notified of this request by regular mail, e-mail, and by phone. Additional notification was made to all three organizations by e-mail on June 21, 2005 of the specific changes to the original request. (See attached notification letters.) At this time staff has not received input from the Clarendon-Courthouse Civic Association. The Clarendon Alliance has not changed its original June response, which registered a general support of measures that help businesses thrive, but would not take a final position until they hear from the neighborhoods affected and get a consensus among their board members (see attached e-mail). The Lyon Village Citizens Association has several concerns with the proposed amendment (see attached e-mail). One of their issues was
that the live entertainment and dancing amendment be tied to the business versus the land, which the applicant has agreed to. However, staff does not recommend that this condition be included because it is not considered an appropriate condition by the County Attorney.

DISCUSSION: The existing restaurant site is across Clarendon Boulevard from the Clarendon Metro station and almost two blocks from the nearest residential neighborhood located in Lyon Village. The SoBe restaurant is located at the center of the Clarendon “urban village” as defined in the Clarendon Sector plan. The proposed live entertainment fits the vision for Clarendon as identified in the Retail Action Plan. The Plan envisions the Clarendon area as a “recognized destination in the Washington Metro region for restaurants and live entertainment.” Furthermore, the Clarendon Sector Plan states that “the urban village concept is achieved in Clarendon by focusing development around a central focal point that includes 3100 Clarendon Boulevard and Clarendon Metro Park.”

The Zoning Ordinance, Section 33.C.3.a. (1) exempts certain uses from on site parking requirements: “To encourage and promote pedestrian-related commercial activity in Metro Station areas, no parking shall be required for the uses where the major portion of the use is located within one thousand (1,000) feet of a Metrorail Station entrance.” Restaurants which operate between 6 p.m. and 6 a.m. and which have fewer than two hundred seats are exempted from providing parking. However, even though the use is not required to provide parking, the surrounding area offers ample off-site parking as there is curb side metered parking on nearby streets and a large parking garage offering over 400 parking spaces about a block from this site at 3033 Wilson Boulevard which provides free parking in the evening after 5:30 p.m. and on weekends and holidays. In the future, it is expected that space will also be made available in the garage below this site after normal daytime office hours once a current Federal Government tenant leaves the site. Local bus transportation and the Metro station across the street also provide a good alternative to driving to this site.

The applicant had originally proposed live entertainment daily from 10 a.m. until 2 a.m., Sunday through Saturday. Following discussions with staff, the applicant has agreed to limit the hours of live entertainment and dancing in order to be similar to those of Mr. Days, which is located in the same building, and consistent with other restaurants in Clarendon. The hours agreed to between the applicant and staff for live entertainment inside are as follows: 5 p.m. until 12:30 a.m., Monday through Thursday; 5 p.m. until 1:30 a.m. Fridays; 10 a.m. until 1:30 a.m., Saturdays; 10 a.m. until 12:30 a.m., Sundays; and 5 p.m. until 1:30 a.m. on the eve of all legal U.S. holidays. Mr. Days ends their live entertainment at these same times every night except Thursday when they end at 1:30 a.m. instead of 12:30 a.m. Mr. Days entertainment is allowed only inside their restaurant, not outside in their outdoor seating area. The earlier hours at SoBe on Saturday and Sunday are to accommodate patrons that attend the restaurant for brunch and for private parties.

The inside live entertainment would be located in space designated near the front window of the indoor seating area along the plaza unless a strolling minstrel is used. Staff has determined that the locations specified for the indoor entertainment and dance area should not impede or hamper the entrance, exit or general maneuvering of the patrons or restaurant personnel.
In addition, the applicant has requested that dancing be allowed anywhere inside or outside of the restaurant, with no designated dance floor area. Staff, including the fire department, do not support that approach inside the restaurant. The original proposal would not maintain clear aisles for the restaurant staff and patrons to move inside the restaurant, particularly in an emergency. Chairs and tables would likely shift randomly around in that environment interrupting clear aisle paths. Staff recommends and the applicant agrees to designate inside the restaurant specific areas for customer dancing and another larger area for dance lessons if needed (see attached floor plan.) The normal customer dance area would be located in an area which currently contains lounge chairs for patrons to use while waiting for a table. For large dance lesson events several of the main dining tables would be removed from the main dining area.

The applicant is also requesting that the live entertainment and dancing be permitted in the outside café area. The location of the requested entertainment and dancing outdoors would vary depending on the type of entertainment. Staff does not typically support allowing live entertainment or dancing in an outdoor seating area or piping the inside live entertainment music to the outdoor café. No other restaurant in the Metro corridor has been permitted to have outdoor entertainment or dancing in their outdoor seating area except for the Clarendon Ballroom on their roof deck on a limited basis “for activities such as wedding ceremonies” up to 8:30 p.m. However, SoBe does have a unique location where their outdoor café is located on a privately owned plaza that is surrounded by the commercial building on three sides and is located almost two blocks from the nearest residential area. Between SoBe’s and the residential area are two busy two lane roads (Clarendon and Wilson), several trees in the park surrounding the Metro station entrance and a row of 1-story retail/commercial buildings and taller office buildings along Wilson that provide shielding for the dwellings behind them. Based on the location, plaza design, type of entertainment and distance from any residential area, staff is recommending approval of outdoor entertainment and dancing as an experiment with reduced hours as stated in condition #1d and reduced list of types of entertainment as stated in condition #12, for a temporary period until the October 2005 County Board review. Then there would be a history of live entertainment and dancing at SoBe’s to use in considering renewing the amended use, particularly in the outdoor seating area.

Staff is recommending a three (3) month review (October 2005) to place this site in the same review cycle as most of the other restaurants in Clarendon with live entertainment. The review would assess compliance with the conditions of the County Board approval and to monitor potential concerns, particularly regarding the outdoor entertainment and dancing. Staff could assess the success of this experiment and the Board could decide if renewal is appropriate.

CONCLUSION: The applicant has agreed to the proposed conditions, including reduced hours, participating in trash pickup, and to participating in the Neighborhood Advisory Group. Therefore, it is recommended that the site plan amendment be approved for live entertainment and dancing subject to the conditions in the staff report with a review by the County Board in three (3) months (October 2005).

1a. The applicant agrees that the hours for live entertainment inside the restaurant shall be as follows: 5 p.m. until 12:30 a.m., Monday through Thursday; 5 p.m. to 1:30
a.m., Fridays; 10 a.m. until 1:30 a.m., Saturdays; 10 a.m. until 12:30 a.m., Sundays; and 5 p.m. until 1:30 a.m., on the eve of all legal U.S. holidays.

1b. The applicant agrees that the hours for dancing inside the restaurant shall be the same as for live entertainment inside except it would not begin before 5 p.m. any day.

1c. The applicant agrees that the hours for live entertainment in the outdoor seating area shall be as follows: 5 p.m. until 12:00 a.m., Thursday and Friday; 10 a.m. to 12:00 a.m., Saturdays; 10 a.m. to 3 p.m. Sundays; and 5 p.m. until 12:00 a.m. on the eve of all legal U.S. holidays.

1d. The applicant agrees that the hours for dancing in the outdoor seating area shall be the same as for live entertainment outside except it would not begin before 5 p.m. any day.

2. The live entertainment and dancing shall be consistent with the applicant’s leasing arrangement with the Wells REIT 1 – 3100 Clarendon LLC.

3. There shall be no customer dancing without obtaining a valid dance hall permit from the County Zoning Office.

4. The applicant shall make customers aware of available parking and any special parking arrangements through postings in the restaurant.

5. The applicant agrees to comply with all requirements of County and State Ordinances, the Environmental Health Bureau, the Fire Marshal’s Office, the Police Department, Community Code Enforcement Office and the Alcohol Beverage Control Board.

6. The applicant agrees to identify a liaison between the subject use and the neighborhoods. The liaison shall be empowered to address any concerns identified as emanating from the live entertainment. The name and telephone number of the liaison shall be provided in writing to the Zoning Administrator, The Clarendon Alliance, the Clarendon-Courthouse Civic Association and the Lyon Village Citizens Association.

7. The applicant agrees that live entertainment and dancing shall meet the noise limits established in the County Noise Ordinance.

8. The applicant agrees to share with other businesses the responsibility for picking up trash along 11th Street North between North Daniel and North Fillmore Streets, the 1000 block of North Edgewood Street and North Highland Street between Washington Boulevard and Clarendon Boulevard and the building's frontage along Washington Boulevard between North Highland Street and Wilson Boulevard. The applicant agrees that its share of this responsibility shall be defined in writing and
provided to the Zoning Administrator. The applicant agrees that its share of this responsibility shall be to pick up trash on these blocks the following morning after each Thursday, Friday and Saturday before 9 a.m. Trash shall include bottles, cans, and any other trash that can be reasonably linked to the applicant's patrons.

9. The applicant agrees to participate in the established neighborhood advisory group consisting of representatives of the Clarendon Grill, Whitlow's on Wilson, Mister Days Sports and Rock Cafe, other live entertainment users in the area, 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, Code Enforcement, and Planning. The advisory group meets quarterly as required to work through issues associated with the live entertainment uses.

10. The applicant agrees to ensure that all restaurant staff are enrolled in the Police Department’s TIPS training.

11. The applicant agrees that the types of live entertainment inside the restaurant would be limited to a DJ, small combos, small jazz groups, an individual guitarist or pianist, or similar style entertainment.

12. The applicant agrees that the types of live entertainment in the outdoor seating area would be limited to small combos, small jazz groups, an individual guitarist or pianist, or similar style entertainment.
PREVIOUS COUNTY BOARD ACTIONS:

June 8, 1982  Approved site plan (Z-2215-82-1) for a 14-story office building containing 226,650 square feet of gross floor area.

March 5, 1983  Approved site plan amendment (Z-2215-82-1) to add 10,493 square feet of site area and increase the gross floor area by 31,479 square feet.

January 5, 1985  Approved abandonment of part of Fairfax Drive west of North Highland Street and adjacent to Lots Part 117 and Part 14, Block G, Lyon's Addition to Clarendon and a portion of the former Fairfax Drive adjacent to the Margaret Rees Strevey Property at the corner of Washington Boulevard and the area of Fairfax Drive, vacated on April 28, 1981.

September 12, 1989  Deferred site plan amendment (Z-2215-82-1) to the September 23, 1989 meeting.

September 28, 1989  Approved site plan amendment (Z-2215-82-1) to install two 6-foot diameter microwave dish antennae on the southeast and southwest corners of the roof, subject to conditions and with a review in five (5) years.

July 8, 1995  Approved site plan amendment (SP #194) to permit live entertainment (jazz, salsa) and dancing in an existing restaurant subject to conditions and with a review in one (1) year. (La Cantinita)

July 20, 1996  Continued site plan amendment (SP #194) to permit live entertainment (jazz, salsa) and dancing in an existing restaurant subject to conditions and with a review in three (3) years (July 1999). (La Cantinita)

July 20, 1996  Approved site plan amendment (SP #194) to permit live entertainment in an existing restaurant subject to conditions and with a review in one (1) year (July 1997). (Blue-N- Gold Brewing Co.)

July 19, 1997  Continued site plan amendment (SP #194) to permit live entertainment in an existing restaurant subject to conditions and with a review in three (3) years (July 2000). (Blue-N- Gold Brewing Co.)
July 10, 1999  Continued site plan amendment (SP #194) to permit live entertainment (jazz, salsa) and dancing in an existing restaurant subject to conditions and with a review in three (3) years (July 2002). (La Cantinita)

July 13, 2000  Continued site plan amendment (SP #194) to permit live entertainment in an existing restaurant subject to conditions and with a review in one (1) year (July 2001) (Mr. Days assumed Blue-N-Gold’s).

December 9, 2000  Deferred site plan amendment request (SP#194) to amend the hours and days of live entertainment and dancing from Wednesday through Saturday, 8 p.m. to midnight to seven (7) days a week 8 p.m. to 1:30 a.m. to the January 27, 2001 County Board meeting. (Mr. Days)

January 27, 2001  Approved site plan amendment request (SP#194) to amend the hours and days of live entertainment and dancing from Wednesday through Saturday, 8 p.m. to midnight to seven (7) days a week from 8 p.m. to 12:30 a.m. on Sundays, Mondays, Tuesdays, Wednesdays and Thursdays; Fridays, and Saturdays from 8 p.m. to 1:30 a.m. and the Sundays, Mondays, Tuesdays and Wednesdays that occur on the eve of a federal holiday from 8 p.m. to 1:30 a.m. subject to all previous conditions and a new condition #4 regarding trash clean up, and with a review in one (1) year. (January 2002) (Mr. Days)

January 26, 2002  Continued site plan amendment (SP#194) for live entertainment and dancing from 8 p.m. to 12:30 a.m. on Sundays, Mondays, Tuesdays, Wednesdays and Thursdays; Fridays, and Saturdays from 8 p.m. to 1:30 a.m. and the Sundays, Mondays, Tuesdays and Wednesdays that occur on the eve of a federal holiday from 8 p.m. to 1:30 a.m. subject to all previous conditions with a new condition #5 regarding participation in the Neighborhood Advisory Group, and with an administrative review in four (4) months (May 2002) with a review by the County Board in ten (10) months. (October 2002) (Mr. Days)

October 19, 2002  Continued site plan amendment (SP#194) for live entertainment and dancing with days and times as previously approved, subject to all previous conditions including a new condition #5 requiring the applicant to participate in the establishment of a neighborhood advisory group, with a review by the County Board in one (1) year (October 2003). (Mr. Days)
<table>
<thead>
<tr>
<th>Date</th>
<th>Statement</th>
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<tbody>
<tr>
<td>October 1, 2003</td>
<td>Continued site plan amendment (SP#194) for live entertainment and dancing with days and times as previously approved, subject to all previous conditions with a review by the County Board in one (1) year (October 2004). (Mr. Days)</td>
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<tr>
<td>October 2, 2004</td>
<td>Continued site plan amendment (SP#194) for live entertainment and dancing with days and times as previously approved, subject to all previous conditions with a review by the County Board in one (1) year (October 2005). (Mr. Days)</td>
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<tr>
<td>June 18, 2005</td>
<td>Deferred site plan amendment (SP#194) for live entertainment for SoBe Seafood Co. to the July 9, 2005 County Board meeting.</td>
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