



## ARLINGTON COUNTY, VIRGINIA

### County Board Agenda Item Meeting of May 7, 2005

**DATE:** April 29, 2005

**SUBJECT:** U-2694-91-3 USE PERMIT REVIEW for live entertainment; premises known as 5169 and 5171 Lee Highway (Palladium) (RPC #02-082-026).

**Applicant:**

Palladium Restaurant and Night Club

**By:**

Natividad Serrano  
5171 Lee Highway  
Arlington, Virginia 22207-1603

**C.M. RECOMMENDATION:**

Renew, subject to all previous conditions, amended Conditions #1 and #4, new Conditions #5 through #9, with a quarterly administrative review (August 2005, November 2005 and February 2006) and a County Board review in one year (May 2006).

**ISSUES:** The neighborhood has expressed concerns that the use creates ongoing problems for the adjacent community, including parking, noise, trash and inappropriate patron behavior.

**SUMMARY:** This is a review of the use permit for live entertainment and dancing in conjunction with an existing restaurant. This use permit was approved by the County Board in 1991 for the La Copa Restaurant. In 2002 the County Board renewed the use permit with a three (3) year review in May 2005. In 2004 the Palladium Restaurant assumed the use permit. The present owner of the establishment secured the restaurant on March 1, 2005. During the review period, nearby residents expressed opposition to the renewal of this use permit. Parking on neighborhood streets, noise and negative patron behavior, trash, and the general appearance of the shopping center were among their complaints. Staff met with the applicant and the residents in an effort to encourage communication between the neighborhood and the applicant. Staff recommends amended and new conditions to mitigate impacts in the area including a reduction in the days and hours of live entertainment. Staff further recommends a quarterly administrative review to allow monitoring of the applicant's compliance with the conditions of use permit approval. Therefore, it is recommended that this use permit for live entertainment be renewed subject to all previous conditions; amended Conditions #1 and #4, new Conditions #5 through #9, with a quarterly administrative review (August 2005, November 2005 and February 2006) and a County Board review in one year (May 2006).

County Manager: \_\_\_\_\_

Staff: Marcia A. Smith, DCPHD, Planning Division

PLA-3997

**BACKGROUND:** This use permit was originally approved in May 1991 for live entertainment including dancing, in conjunction with an existing restaurant with a review in six (6) months. The use permit was reviewed in November 1991 and continued with a review in one (1) year (November 1992). In 1992 the use permit was reviewed and renewed with a three (3) year review (November 1995). At its review in November 1995 the use permit was continued with a five (5) year review (November 2000). At the November 2000 review, residents identified issues including noise, parking and trash and the use permit was renewed for six (6) months (May 2001) to allow the applicant time to address the concerns. Following the May 2001 review the use permit was renewed for one (1) year (May 2002). In May 2002, the use permit was again renewed for three (3) years with a review in May 2005.

**DISCUSSION:** Since the last review in May 2002, the restaurant name changed from La Copa to the Palladium and is currently under new ownership. The new owners began operating at this location on March 1, 2005. The new owners state that they were not aware of the conditions of use permit approval until recently. It is recommended that the use permit conditions be updated to mitigate the adverse impacts identified by the near neighbors and that the hours of live entertainment be reduced to 7:00 p.m. to 12 midnight on Fridays and Saturdays. The current hours of live entertainment are Thursdays through Saturdays between the hours of 9:00 p.m. and 1:00 a.m. and Sundays between 11:00 a.m. and 5:00 p.m. The revised conditions would include the following:

- Obtain letters from the property owners and operators of all establishments identifying and confirming all existing parking and any additional parking that the applicant has permission to use during the hours of live entertainment. This should include any property in the shopping center and elsewhere on Lee Highway. The letters identifying the parking shall be shared with the near neighbors, the Yorktown Civic Association, the Leeway-Overlee Civic Association and the Zoning Administrator (amended Condition #4).
- Identify a liaison from the establishment who would be available and empowered to address neighbors concerns. The name and telephone number shall be immediately shared with the near neighbors, the Yorktown Civic Association, the Leeway-Overlee Civic Association and the Zoning Administrator (Condition #5).
- Post information in the restaurant to notify patrons of the location of the additional parking secured by the applicant, during the hours of live entertainment (amended Condition #4).
- Limit the use of the rear door to the alley for deliveries, trash removal, and emergency evacuation only. The applicant agrees to ensure that there shall be no entry into or exit from the establishment permitted from this rear doorway during the hours of live entertainment (Condition #6).

#### **Since the Last Review:**

Use Permit Conditions: The new owners of the establishment have not complied with all conditions of use permit approval. Neighbors complain that the rear door is being used to permit entry into the restaurant; parking on the site is inadequate, and thus patrons are parking in the neighborhood; noise and rowdy behavior of patrons leaving the

establishment. Staff is recommending amended hours of operation of the live entertainment and new conditions to mitigate the impacts in the area during the hours of live entertainment.

Community Code Enforcement: Staff report that the use is in compliance with County Codes.

Fire Marshal's Office: Staff report that the use is in compliance with the County's fire codes. (See attached)

Environmental Health: The applicant has submitted a certificate of approval from the Health Department through December 31, 2005. (See attached)

Police Department: Police Officers report that over the past two (2) years, there were a total of 19 loud party calls within a 12-block radius of the area that included the Garden City shopping center. Five (5) of the calls were related to 5171 Lee Highway, however, no reports were taken by the Police. In addition there were four (4) assault calls associated with the Palladium Restaurant, one (1) of which occurred following a day time soccer game. There were no reports taken or arrests on any of the Police responses to the site. The last response by the Police Department to the Palladium restaurant occurred in November 2004. The new owner of the business has agreed to work closely with the Police and the neighbors and to participate in Police efforts in the area that would include monthly meetings with the Palladium and the Taco Dona Mary establishments. In addition the applicant agreed to enroll all restaurant staff in the Police Department's TIPS training and to work more closely with the Police Department. The Police Department does not object to renewal of this use permit.

Civic Associations: The use is located in the Yorktown Civic Association. Other nearby associations were also notified of this use permit review including, the John M. Langston Citizens Association, the Leeway-Overlee Civic Association, and the Old Dominion Civic Association. The Yorktown Civic Association and the nearest neighbors continue to express strong opposition to renewal of this use permit. The Association and the nearby residents concerns include noise from the establishment and the patrons; parking in the neighborhood and in the rear of the building (prohibited by Condition #4) along the public alley by patrons; rowdy behavior of the patrons leaving the establishment; and the use of the rear door for patron entry to the restaurant during the hours of live entertainment.

Neighborhood Meeting: On April 20, 2005 County staff representing the Police, Planning and Code Enforcement Offices attended an on-site meeting with the Palladium owner, near neighbors and civic association representatives. Many of the neighbors concerns include issues with the Garden City shopping center regarding the appearance of the front and rear of the buildings, potholes in the drive aisle, inadequate parking for all of the establishments in the shopping center and the appearance of the public alley that divides the residential properties from the commercial uses. The underlying arguments

appear to call for more long-term solutions for future plans and development along this portion of the Lee Highway corridor.

The business owner expressed her desire to be a good neighbor and to put forth the efforts necessary to minimize impacts on the neighborhood. The owner's efforts would include securing additional parking, adjusting the volumes of the entertainment to reduce the impacts on the near neighbors, and assigning a liaison who would be empowered to handle complaints regarding the live entertainment and to working closely with the other businesses in the Garden City complex to share parking opportunities.

**CONCLUSION:** This site has operated with a live entertainment use permit including dancing since 1991. The County's public safety agencies including the Fire Department and Code Enforcement report that the applicant is in compliance with the County's Codes. The Alcohol Beverage Control Board (ABC) staff report no objection to renewal of this use permit. While there have been a number of calls to the Police Department in this vicinity, the Police Department identified a total of five (5) responses to the subject address, all of which occurred in 2004 and none of which resulted in a report being taken by the Police.

The neighborhood remains opposed to renewal of this use permit. It is anticipated that the proposed amendment to Condition #1 limiting the hours of live entertainment and new Conditions #5 through #9 can be used to mitigate the impacts and to ensure that the community's concerns are dealt with in a timely manner. A quarterly administrative review is recommended to allow monitoring of the applicant's compliance with the conditions of use permit approval. Therefore, it is recommended that the use permit be renewed subject to all previous conditions, amended Conditions #1 and #4; and new conditions #5 through #9, with a quarterly administrative review (August 2005, November 2005 and February 2006) and a County Board review in one year (May 2006).

1. The applicant agrees that live entertainment shall be permitted only between the hours of 9:00 7:00 p.m. and 1:00 12:00 a.m. (midnight), Thursday Friday through and Saturday evenings ,and 5:00 p.m. to 11:00 p.m. on Sundays.
4. ~~The applicant shall undertake efforts to secure additional parking from adjacent businesses to support potential increased parking during the hours of live entertainment and the applicant shall make customers aware of any parking arrangements. Customer parking shall not be permitted behind the restaurant.~~ The applicant agrees to secure additional parking from adjacent businesses to support potential increased parking during the hours of live entertainment and the applicant shall make customers aware of any parking arrangements through postings in the restaurant. Customer parking shall not be permitted behind the restaurant. The applicant agrees to verify and identify, in writing, the location and permission to use any existing parking spaces and additional parking spaces that would be made available to its patrons during the hours of live entertainment. This document shall be shared with the nearest neighbors, the Yorktown Civic Association, the Leeway-Overlee Civic Association and the County's Zoning Office.

5. The applicant agrees to identify an on-site 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 of the liaison shall be shared with the nearest neighbors, the Yorktown Civic Association, the Leeway-Overlee Civic Association and the County's Zoning Office immediately.
6. 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.
7. 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 and the Code Enforcement Office shall be met.
8. The applicant agrees to ensure that all trash is picked up along the Lee Highway frontage of the shopping center following close of business on Friday and Saturday nights. The applicant further agrees that all trash receptacles located at the rear of the site shall be well maintained and kept closed at all times.
9. The applicant agrees to ensure that all restaurant staff are enrolled in the Police Department's TIPS training and to work more closely with the Police Department. They further agree to attend monthly meetings with the Police Department that would include participation by the Palladium Restaurant to address potential issues associated with the live entertainment uses.

PREVIOUS COUNTY BOARD ACTIONS:

November 22, 1988	Deferred use permit (U-2604-88-1) for live entertainment, including dancing in an existing restaurant.
January 7, 1989	Accepted withdrawal of use permit (U-2604-88-1) for live entertainment, including dancing in an existing restaurant.
January 6, 1990	Deferred use permit (U-2657-89-2) for live entertainment, including dancing in an existing restaurant to February 10, 1990.
February 10, 1990	Deferred use permit (U-2657-89-2) for live entertainment including dancing in an existing restaurant to March 10, 1990.
March 10, 1990	Approved use permit (U-2657-89-2) for live entertainment, including dancing in an existing restaurant.
March 11, 1991	Approved use permit (U-2694-91-3) for live entertainment, including dancing with a six (6) month review.
November 16, 1991	Continued use permit (U-2694-91-3) for live entertainment, including dancing with a review in one (1) year. (November 1992)
November 14, 1992	Continued use permit (U-2694-91-3) for live entertainment, including dancing with a review in three (3) years. (November 1995)
November 21, 1995	Continued use permit (U-2694-91-3) for live entertainment, including dancing with a review in five (5) years. (November 2000)
November 18, 2000	Continued use permit (U-2694-91-3) for live entertainment with a review in six (6) months. (May 2001)
May 19, 2001	Continued use permit (U-2694-91-3) for live entertainment with a review in one year. (May 2002)
May 18, 2002	Continued use permit (U-2694-91-3) for live entertainment with a review in three years. (May 2005)

Approved (U-2694-91-3) Use Permit Review Conditions:

1. Live entertainment shall be permitted only between the hours of 9:00 p.m. and 1:00 a.m., Thursday through Saturday evenings, and 5:00 p.m. to 11:00 p.m. on Sundays.
2. The applicant shall screen the trash dumpsters with a solid wood fence and ensure that all trash generated by the subject restaurant is appropriately stored in trash receptacles until such time as it is removed from the premises and that debris and discarded or unwanted items are not allowed to collect at the rear of the property.
3. The applicant shall ensure that all windows and doors to the subject site are kept closed at all times and shall soundproof the rear windows if necessary.
4. The applicant shall undertake efforts to secure additional parking from adjacent businesses to support potential increased parking during the hours of live entertainment and the applicant shall make customers aware of any parking arrangements. Customer parking shall not be permitted behind the restaurant.